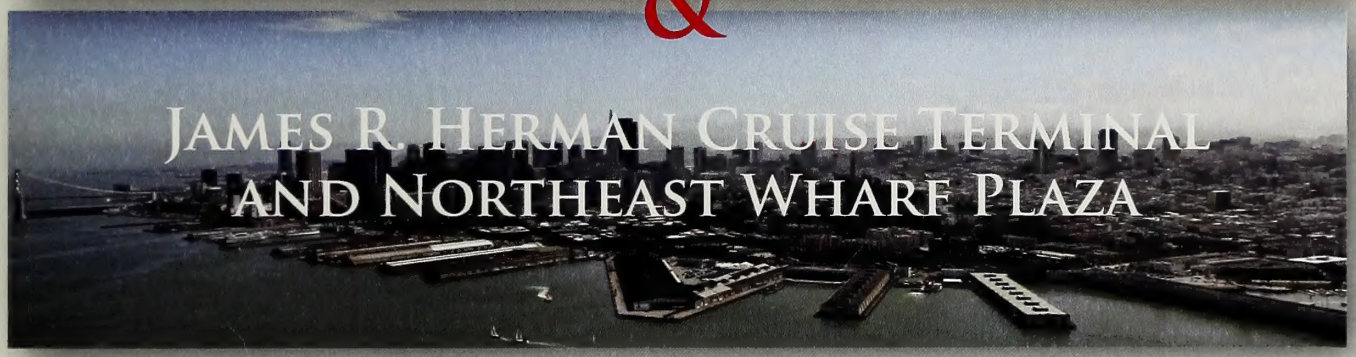
SAN FRANCISCO PUBLIC LIBRARY
3 1223 09951 4367

Volume 7

Comments and Responses on the Draft EIR

The 34th America's Cup

&



James R. Herman Cruise Terminal and Northeast Wharf Plaza

San Francisco Planning Department Case No. 2010.0493E
State Clearinghouse No. 2011022040

Draft EIR Publication Date: July 11, 2011
Draft EIR Public Hearing Date: August 11, 2011
Draft EIR Public Comment Period: July 11, 2011 – August 25, 2011
Comments and Responses Publication Date: December 1, 2011
Final EIR Certification Date: December 15, 2011

D
REF
711.7609
Am3596d
v.7

SAN FRANCISCO
PLANNING
DEPARTMENT

GOVERNMENT
DOCUMENTS DEPT
DEC - 2 2011
SAN FRANCISCO
PUBLIC LIBRARY

5/S

San Francisco Public Library

Government Information Center
San Francisco Public Library
100 Larkin Street, 5th Floor
San Francisco, CA 94102

REFERENCE BOOK
Not to be taken from the library

Volume 7

Comments and Responses on the Draft EIR

The 34th America's Cup & James R. Herman Cruise Terminal and Northeast Wharf Plaza

San Francisco Planning Department Case No. 2010.0493E
State Clearinghouse No. 2011022040

Draft EIR Publication Date: July 11, 2011
Draft EIR Public Hearing Date: August 11, 2011
Draft EIR Public Comment Period: July 11, 2011 – August 25, 2011
Comments and Responses Publication Date: December 1, 2011
Final EIR Certification Date: December 15, 2011

SAN FRANCISCO
PLANNING
DEPARTMENT

3 1223 09951 4367

TABLE OF CONTENTS

The 34th America's Cup Races and James R. Herman Cruise Terminal and Northeast Wharf Plaza Comments and Responses Document

Page

Volume 5 (*bound separately*)

9. **Introduction to Comments and Responses**

10. **List of Persons Commenting**

11. **Project Updates and New Project Variants**

12. **Responses to Comments**
    - 12.1 Organization of Responses to Comments
    - 12.2 General Comments
    - 12.3 Introduction
    - 12.4 Project Description
    - 12.5 Plans and Policies
    - 12.6 Impact Overview
    - 12.7 Land Use
    - 12.8 Aesthetics
    - 12.9 Population and Housing
    - 12.10 Cultural and Paleontological Resources
    - 12.11 Transportation and Circulation

Volume 6 (*bound separately*)

12. **Responses to Comments (continued)**
    - 12.12 Noise and Vibration
    - 12.13 Air Quality
    - 12.14 Greenhouse Gas Emissions
    - 12.15 Wind and Shadow
    - 12.16 Recreation
    - 12.17 Utilities and Service Systems
    - 12.18 Public Services
    - 12.19 Biological Resources, Upland
    - 12.20 Biological Resources, Marine
    - 12.21 Geology and Soils
    - 12.22 Hydrology and Water Quality

Page

Volume 6 (continued)

12. Responses to Comments (continued)
12.23 Hazards and Hazardous Materials
12.24 Mineral and Energy Resources
12.25 Agriculture and Forest Resources
12.26 Other CEQA Issues
12.27 Alternatives

13. Draft EIR Revisions

Volumes 7 and 8 – Appendices

Volume 7

COM. Comment Letters and Emails COM-1
PH. Public Hearing Transcripts PH-1

Volume 8 (*CD inside back cover of Volume 5*)

PD. Supplemental Project Description Supporting Information
CP. Supplemental Historical Resources Supporting Information
AQ. Supplemental Air Quality Supporting Information
TR. Supplemental Transportation Technical Appendix

Appendix COM

Digitized by the Internet Archive
in 2014

https://archive.org/details/draftenvironment7120sanf

APPENDIX COM

Comment Letters and Emails

This appendix contains copies of all written comments received on the Draft EIR, including comments submitted either by letter, fax, or email. Transcripts of oral comments presented at the public hearing on the Draft EIR are included in a separate appendix, Appendix PH.

Written comments are grouped under one of three categories: public agencies, non-governmental organization, or individuals. Tables summarizing all of the commenters in each of these three categories are presented in Chapter 10 of the Comments and Responses document and are repeated in this appendix at the beginning of each of the three groups of comments. Within each category, commenters are organized in alphabetical order by code.

To facilitate the commenter in locating the responses to his or her comments, the EIR assigns a unique commenter code plus one or more topic code to each individual comment, as explained below. Both the commenter and topic codes are shown in the margin of each written comment, with the unique commenter code shown first and the topic code(s) in square brackets beneath the commenter code. This information shown in the margins of each written comment serves as the cross-reference guide for the commenter and topic codes.

Commenter Codes

This document assigns a code to each comment letter, email, comment card, and public hearing transcript based on the name of the agency, organization, or individual submitting the comment. Comments submitted by mail, email, facsimile, comment card, or orally at the public hearing (as transcribed in the official public hearing transcript) are all coded and numbered the same way. Each commenter code has three parts. It begins with a prefix indicating whether the commenter is from a public agency (A) or non-governmental organization (O) or is an individual (I). This is followed by a hyphen and the acronym of the agency or organization, or the individual's last name. The third part of the code is the sequential numbering of individual comments within a letter or email that represents a distinct topic. The first two parts of the commenter codes is shown in bold at the top of each page of every written comment, and the third part is shown in the margin along side the individual bracketed comment. Only substantive comments received on the Draft EIR are bracketed; for example, comments that describe an agency's or organization's mission or that reiterate or quote sections of the EIR are not bracketed.

As an example of the commenter coding system, the comment letter from the National Park Service is coded A-NPS, and the first comment in the letter is coded A-NPS-01, the second

comment on a different topic is coded A-NPS-02, etc. If a single agency, organization, or individual submitted comments more than once (or spoke at the public hearing in addition to submitting written comments), a number is inserted at the end of the identifying initials. For example, the National Park Service submitted comments both at the public hearing and in a letter; the first comment set is coded as A-NPS1, and the second set is A-NPS2. The subsequent sequential numbers denote the individual comments from that commenter (e.g., A-NPS1-01, A-NPS1-02, A-NPS1-03, etc.).

Topic Codes

The prefixes for the topic codes used in the organization of Chapter 12, Responses to Comments, are shown below:

General Comments: GEN
Introduction: INT
Project Description: PD
Plans and Policies: PP
Impact Overview: IO
Land Use: LU
Aesthetics: AE
Population and Housing [PH]
Cultural and Paleontological Resources: CP
Transportation and Circulation: TR
Noise and Vibration: NO
Air Quality: AQ
Greenhouse Gases Emissions: GG
Wind and Shadow: WS
Recreation: RE
Utilities and Service Systems: UT
Public Services: PS
Biological Resources, Upland: BIU
Biological Resources, Marine: BIM
Geology and Soils: GE
Hydrology and Water Quality: HY
Hazards and Hazardous Materials: HZ
Mineral and Energy Resources: ME
Agriculture and Forest Resources: AG
Other CEQA Issues: OC
Alternatives: AL

Within each topic area, similar comments are grouped together, and Chapter 12 provides a comprehensive response to those related comments under one topic code. Topic codes are numbered sequentially using the topic code prefix and sequential numbering for each subtopic. For example, General Comments [GEN] are listed as [GEN-1], [GEN-2], [GEN-3], and so on. Under each topic code in each section of Chapter 12, all of the commenter codes that are addressed under each topic code as a cross-reference. As described above, topic codes are shown in this appendix in the margin of each written comment in square brackets underneath the commenter code.

Several comment letters included attachments. These attachments did not address the adequacy or accuracy of the EIR. They are listed in the table below and available for review on file at the Planning Department.

A-DTSC	Requirements for Generators of Treated Wood Waste
O-ACEC	Cup's yacht plan threatens our wide-open bay views, John King, SF Chronicle
O-ACEC	Letter RE: Temporary Shutdown of Publicly Funded Shoreside Power Installation for Cruise Ships at Pier 27; TIRN & NRDC
O-ACEC	Water Quality Volume and Flow Rate Calculator

O-ACEC	Letter RE: Application for 401 Water Quality Certification -- The 34th America's Cup Races and James R. Herman Cruise Terminal; Baykeeper
O-ACEC	Incomplete Application for Water Quality Certification for the 34th America's Cup Races and James R. Herman Cruise Terminal Project, San Francisco County; RWQCB
O-ACEC	Water Supply and Demand: Planning for the Future; SFPUC presentation
O-ACEC	Arc Ecology Letter
O-ACEC	"2011 San Francisco Residential Development Pipeline," San Francisco Business Times
A-OPR	RWQCB letter
A-OPR	DTSC letter
A-OPR	State Lands Commission letter
O-CPCFC	Crissy Field Center Program Reach
O-EOP	The San Francisco Ferry Building Comprehensive Access and Parking Study
O-GGNPC	Crissy Field Center Program Reach
O-NRDC	San Francisco Bay areas of porpoise and dolphin concentrations
O-RBACS	untitled map
O-TIRN	Letter RE: Temporary Shutdown of Publicly Funded Shoreside Power Installation for Cruise Ships at Pier 27; TIRN & NRDC
O-WW	Port of San Francisco Historic Preservation Review Guidelines for Pier and Bulkhead Wharf Structures, with appendices
I-Paul	"2011 San Francisco Residential Development Pipeline," San Francisco Business Times

This page intentionally left blank

Agencies

PUBLIC AGENCIES COMMENTING ON THE DRAFT EIR

Commenter Code	Name of Person and Agency Submitting Comments	Comment Format	Comment Date
Federal			
A-NPS1	Mike Savidge, National Park Service	Transcript	08/11/2011
A-NPS2	Frank Dean, General Superintendent, National Park Service	Letter	08/25/0211
A-Presidio	Craig Middleton, Executive Director, Presidio Trust	Letter	08/25/2011
A-USDI	Patricia Sanderson Port, Regional Environmental Officer, United States Department of the Interior	Letter	08/24/2011
State			
A-BCDC	Ming Yeung, Coastal Planning Analyst, *et al.*, San Francisco Bay Conservation and Development Commission	Letter	08/25/2011
A-Caltrans	Gary Arnold, District Branch Chief, California Department of Transportation	Letter	08/25/2011
A-CDFG	Marija Vojkovich, Regional Manager, Marine Region, California Department of Fish and Game	Letter	09/06/2011
A-CDPR	Amy Brees, Angel Island Superintendent, *et al.*, California Department of Parks and Recreation	Letter	08/22/2011
A-CSLC1	Cy R. Oggins, Chief, Division of Environmental Planning and Management, California State Lands Commission	Letter	08/25/2011
A-CSLC2	Lynn Takata, Marine Invasive Species Program Manager, California State Lands Commission	Letter	08/25/2011
A-DBW	Vivian Matuk, Environmental Boating Program Coordinator, Department of Boating and Waterways and California Coastal Commission	Letter	08/25/2011
A-DTSC	Denise Tsuji, Unit Chief, Northern California–Coastal Cleanup, California Department of Toxic Substances Control	Letter	08/25/2011
A-OPR	Scott Morgan, Director, Office of Planning and Research, State Clearinghouse	Letter	08/25/2011
A-RWQCB	Bruce Wolfe, Executive Officer, California Regional Water Quality Control Board, San Francisco Bay	Letter	08/19/2011
Regional/Local			
A-ABAG	Laura Thompson, Bay Trail Project Manager, Association of Bay Area Governments	Letter	08/25/2011
A-ACTransit	Cory LaVigne, Director of Service Development and Planning, Alameda-Contra Costa Transit District	Letter	08/25/2011
A-BAAQMD	Jean Roggenkamp, Deputy Air Pollution Control Officer, Bay Area Air Quality Management District	Letter	09/01/2011
A-Belvedere	Pierce Macdonald, Planning Manager, City of Belvedere	Letter	08/24/2011
A-GGBHTD	Ron Downing, Director of Planning, Golden Gate Bridge Highway & Transportation District	Letter	08/23/2011
A-MBOS	Kathrin Sears, Supervisor, Southern Marin, Marin County Board of Supervisors	Letter	08/25/2011
A-MCCDA	Rachel Warner, Interim Environmental Coordinator, Marin County Community Development Agency	Letter	08/25/2011

PUBLIC AGENCIES COMMENTING ON THE DRAFT EIR (Continued)

Commenter Code	Name of Person and Agency Submitting Comments	Comment Format	Comment Date
Regional/Local (cont.)			
A-PortOak	Richard Sinkoff, Director, Environmental Programs and Planning Division, Port of Oakland	Letter	08/24/2011
A-RBRA	Ben Berto, RBRA Clerk, and Bill Price, RBRA Harbor Administrator, Richardson's Bay Regional Agency	Letter	08/19/2011
A-Sausalito	Herb Weiner, Mayor, City of Sausalito	Letter	08/25/2011
A-SFCTA	Michael Schwartz, Transportation Planner, San Francisco County Transportation Authority	Email	08/25/2011
A-SFHPC	Courtney Damkroger, Vice President, San Francisco Historic Preservation Commission	Letter	08/26/2011
A-SFPC-Anto	Michael Antonini, San Francisco Planning Commission	Transcript	08/11/2011
A-SFPC-Fong	Rodney Fong, San Francisco Planning Commission	Transcript	08/11/2011
A-SFPC-Mig	Ron Miguel, San Francisco Planning Commission	Transcript	08/11/2011
A-SFPC-Moore	Kathrin Moore, San Francisco Planning Commission	Transcript	08/11/2011
A-SFPC-Olag	Christina Olague, San Francisco Planning Commission	Transcript	08/11/2011
A-SFPC-Sug	Hisashi Sugaya, San Francisco Planning Commission	Transcript	08/11/2011
A-SFRA	Stanley Muraoka, Environmental Review Officer, San Francisco Redevelopment Agency	Letter	08/24/2011
A-Tiburon	Daniel M. Watrous, Planning Manager, Town of Tiburon	Letter	08/24/2011

SOURCE: ESA, 2011

United States Department of the Interior
NATIONAL PARK SERVICE
Golden Gate National Recreation Area
San Francisco Maritime National Historical Park
Bldg. 201 Fort Mason, San Francisco, California 94123

L3215 (GOGA-SUPT)

RECEIVED
AUG 25 2011
CITY & COUNTY OF S.F
PLANNING DEPARTMENT
M E A

August 25, 2011

Mr. Bill Wycko
Environmental Review Officer
San Francisco Planning Department
1650 Mission Street, Suite 400
San Francisco, CA 94103

Dear Mr. Wycko:

We appreciate the opportunity to review your DEIR as an agency with responsibility for managing key National Park Service (NPS) parklands and waters in the primary and secondary "Area of Effect." And we recognize the opportunity that America's Cup, and its related event program(AC34), holds for the City and County of San Francisco, as well as the residents and visitors who will participate as "spectators." Toward that end, the City/County of San Francisco, and its contractors, are to be commended for producing a DEIR in record time. Much of the document is informative and helpful in understanding the type of impacts the AC34 races and associated activities would have on the larger San Francisco area; and we appreciate the focused attempt to at least mention, and often propose, mitigation for some of the identified impacts on NPS park lands and waters. **01** [GEN-1]

However, our responsibilities are for the protection and preservation of all NPS park resources and values for both current and future generations to enjoy, as well as the access, safety and enjoyment of all visitors, not just those enjoying AC34. Therefore, we have many remaining concerns about the adequacy of the EIR, and want to make sure these concerns, including gaps in the analysis, in mitigation and in the dependence of the EIR on future planning (such as the People Plan) are resolved in the CEQA process and do not revert to the NEPA document to be addressed or left out of the analysis. For example, we believe that because the CEQA and NEPA processes have been separated in this case, one must take on the analysis of the full project and all of its related impacts, including cumulative impacts, not just of surrounding and unrelated projects, but of the entire "Area of Potential Effect" of the AC34. It is clear to us that this would be the EIR, as the City/County are identified in the DEIR as part of the project sponsor team, and the federal agencies are responding to the requests for use, access or permits from the sponsors. We believe this requires making a full CEQA analysis of the regional effects of AC34 spectators, activities, facilities and the races themselves, (including on all affected NPS park lands and waters, resources and values), and adequate opportunities for park and public review. Characterizing the DEIR as sometimes programmatic in nature and sometimes site specific does **02** [GEN-3, INT-2, IO-5]

COM-7

not relieve the City/County of its responsibility to ensure all impacts are assessed in site specific detail (CEQA Guidelines 15146a) and fully mitigated if significant. **02** [GEN-3, INT-2, IO-5] cont.

We have summarized our larger concerns with a few examples for context here, but have also included an attached list of more specific comments tied to sections and pages in the DEIR.

- The EIR mentions several future plans, including an event plan, waste management plan, people plan, traffic plan etc. that the City/County would complete to assess and address specifics, whether it be in impacts or mitigation measures. These plans are not part of the NEPA scope, as the federal agencies are concerned only about lands and resources under their jurisdiction and/or complying with specific mandates (such as Section 404 of the Clean Water Act for example). How does the City/County continue its more specific planning without opportunities for the park or public to understand and respond to the impacts and adequacy of those plans, or insure that these impacts are adequately assessed? For example, how will the park be assured that adequate parking, transit, safety, and access for visitors and partners, required incident command during the event, resources subject to disturbance from air and water vessel traffic are adequately provided for unless the park operations plan, traffic plan, air and water plan, etc. are completed as part of the CEQA process? Would commitments in these plans be binding on the project sponsors as decisions in the CEQA process would be? **03** [PD-7]
- The DEIR has several impacts that would remain significant, either with mitigation or because no mitigation has been identified to date. To the extent that these impacts affect federal lands or resources, and in particular NPS resources and values, we would not be able to move forward using an environmental assessment (EA) but would rather require an EIS, where significant impacts are allowable. **04** [INT-2]
- We are also looking for absolute commitments on the part of the city/county, America's Cup Event Authority and Race Management LLC's to mitigations both currently identified, and/or still required to be identified, and examined in the EIR for impacts on NPS lands, resources and values. The language in the description of mitigation measures is sometimes unclear as to whether it would be definitely implemented or is only a possibility and will be explored further. Please ensure the mitigation measures are stated so it is clear that they will be implemented in both the EIR and any decision document as part of the project (perhaps in the form of a mitigation and monitoring plan signed by your decision makers) issued by the City/County. This could support its use as the least environmentally damaging "version" of the proposed project as we move into the NEPA process, something that may mean the difference between an EA and an EIS, and achieving projected permit deadlines. **05** [INT-3]
- Each of these mitigation measures will require funding—whether it is for pre event planning or preventive facility asset mitigation; law enforcement, visitor management and resource protection during the event; or analysis of monitoring and adaptive management information and repair after the event of park resources and facilities. Although the details of how mitigation is applied, its effectiveness, and the type of monitoring and use implemented in adaptive management during and following the event may be worked out later in the park (event and) operations planning, the commitment by **06** [GEN-2]

the project sponsors to ensuring all costs are fully recovered by the park in fulfilling park requirements must be made in the FEIR and any accompanying decision document. 06 [GEN-2] cont.

- We note that the EIR only analyzes impacts for subjects where the City/County has identified a significance threshold. Although this is probably sufficient for "normal" projects under your jurisdiction, the AC34 proposal would have regional effects outside the jurisdiction of the City/County, including on NPS park lands and waters. The analysis in the DEIR clearly shows that you did not anticipate these kinds of impacts when you were creating your significance thresholds, as concerns such as staffing, crowding, budgets, visitor experiences, migratory bird nesting, etc. have no thresholds. This does not mean they aren't important impact topics though, or that analysis shouldn't be done and a determination of whether the impact is significant and/or whether mitigation is available to lessen the impact. In fact, despite no specific applicable significance thresholds, unmitigated impacts from AC34 on park lands, operations, resources or values in many cases fall clearly into the definition of significant provided in the CEQA Guidelines Section 15065(a) ("substantially reduce the habitat of a wildlife species; threaten to eliminate a plant or animal community, substantially reduce the number…of a…rare species," "cause substantial adverse effects on human beings either directly or indirectly," etc.). Please expand the analysis to include effects on resources where there is a potential for significant impact but no thresholds exist. 07 [IO-2]

- Our analysts disagree with many of the DEIR findings that an effect on NPS resources or values would not be significant and therefore mitigation is not required. Instead, we note that in most cases, the impact would be significant until mitigation is applied, and that the commitment to specific mitigation is what keeps it from being significant. For example, LU-3 describes the impact of bringing very large crowds to Crissy Field but does not find impacts on NPS park lands, resources or visitors to be significant. Unique resources occur here, as does substantial visitor use that would be displaced for a long period of time. Large scale repair to Crissy Field itself, as well as the promenade there, and potentially at SAFR, would likely be needed. Impacts to traffic, whether it be bicycle, car, pedestrian, transit or emergency vehicles would be substantial; users would experience crowded and potentially hazardous conditions with increased injuries likely; emergency access could be blocked without careful planning and mitigation; cumulative impacts from Doyle Drive improvements and other identified projects would result in significant traffic jams, closed roads, less access etc. without mitigation. Our attached comments enumerate additional instances where we believe impacts would be significant unless mitigated. 08 [IO-2, LU-6, RE-1]

- We recognize that some of the mandatory findings of significance are used to decide whether an EIR is needed, and that decision has already obviously been made. However, we also note that mitigation to "avoid or substantially lessen" the effect or an explanation of overriding considerations is needed for each potentially significant impact. We expect the EIR to evaluate the impact to all affected NPS park lands, waters, resources, values and operations and to propose and commit to mitigation for each significant effect. Yet we see many of these expected impacts have not been evaluated at all, only those impacts where the City/County has developed significance thresholds are included, and mitigation is not binding in many cases.

- The DEIR does not include analysis of the impact on visitor experience, park operations, park partners, socioeconomics, and many other categories dismissed because they are not part of a "physical change" and so do not require analysis. We absolutely disagree with this interpretation. A physical change as defined by the CEQA guidelines (15064 (d)) relates to impacts, rather than construction or buildings. Physical changes include direct *effects* related to the proposed action (e.g. dust, noise and traffic of heavy equipment used to construct a sewage treatment plant) as well as indirect actions and *effects* that occur later in time not immediately related to the project. Section 15064 uses the example "…if a project would cause overcrowding of a public facility and the overcrowding causes an adverse effect on people, the overcrowding would be regarded as a significant effect." Overcrowding and its adverse effects on visitor experience, park operations, park partners and park budgets are all examples of physical changes as defined by the CEQA regulations and need to be included in the analysis. 08 [IO-2, LU-6, RE-1] cont.

- Although the NPS made many pages of specific comments at the scoping stage, there is no response in Table 2-1 as to how each was addressed. For example, we had asked that the geographic scope of the analysis include NPS lands outside those where events or facilities are planned because resources may experience impacts from regional changes, such as spectator viewing or noise. For example, the Crissy and Presidio bluffs where viewing would be excellent include unique soils, rare plants and federally protected species; Bird Island, Bonita Cove and Kirby Cove all have unique wildlife that would be disturbed by mobile boat and helicopter traffic; Mission blue butterfly habitat extends throughout much of the Marin Headlands viewing area, as well as in Battery Yates and Battery Duncan in Ft. Baker; Baker Beach hosts a rich seabird community from August through May that could be disturbed by increased visitors and noise. Please carefully consider the entire impact area and assess the impacts on all affected NPS lands and waters of actions that produce effects rather than just those in the immediate vicinity of an event or facility. Also, we had asked that the EIR include an analysis of impacts to recreational users at park sites both in the immediate area of facilities and events, as well as to adjacent areas where displaced visitors are likely to relocate; we did not find any of this analysis in the DEIR. We also asked how ferry traffic to and from Alcatraz would be maintained, and what the impacts would be to visitors attempting to visit the island, but this analysis is not in the DEIR. Please carefully review the NPS scoping comments and address each in the FEIR. We are available to help explain our concerns in more depth and work with the City/County to provide information as needed to help in analyzing and proposing mitigation. 09 [INT-4, IO-1c] 10 [RE-1] 11 [TR-7a] 12 [INT-4]

- Like NEPA, CEQA requires the presentation of a baseline of existing conditions against which the impacts of a proposal are compared for relative impacts and added for cumulative impacts. Without this comparative information, readers and decision-makers cannot make a finding of whether significant impacts are possible, as baseline provides needed context. This goes further than simply identifying the number of parking spaces in the region or available transit lines, law enforcement numbers or fire stations in the area, etc. To understand the impact, we must also know conditions—that is, are all parking spaces always taken on weekends? Is there any room on the buses going to the area where spectators are expected? Is the park already crowded with visitors during summer 13 [INT-2]

Golden Gate National Recreation Area
AC34 Draft EIR Comments
25-Aug-11

Volume	Page	Paragraph	Comment	
1	1,para 1	1	Proj. Description-inaccurate to state that"both projects are primarily located along northeastern waterfront" alone in describing this project. The 2012 and 2013 races will be primarily along the "northern" waterfront of SF, and spectator viewing areas are proposed to be primarily along the northern coastal waterfront of both GGNRA, SAFR and the City with secondary viewing areas in Southwestern Marin county primarily along Conzelman road and Ft.Baker.	15 [PD-6]
	Table 1	box 17	Implementation Plans referred to include a Park Events Ops Plan reference-its is NOT simply an event ops plan that is required but a full "Park Incident Command Management Plan" that is required by NPS regulations for event programs of this size and duration. Also, these listed plans including the People Plan, etc. are not provided nor in enough detail to allow for the common member of public to assess their adequacy in addressing the impacts of this event program!	16 [GEN-5, PD-7]
	1-5, para 2	2	Same comment as above: Implementation Plans referred to include a Park Events Ops Plan reference-its is NOT simply an event ops plan that is required but a full "Park Incident Command Management Plan" that is required by NPS regulations for event programs of this size and duration. Also, these listed plans including the People Plan, etc. are not provided nor in enough detail to allow for the common member of public to assess their adequacy in addressing the impacts of this event program! Also, an educational plan funded and implemented by the Event Authority will be required as part of any event program permit to insure compliance with our special use regulations.	
	1-5, para3	3	Page reference should be given here to SF waterfront Special Area Plans(which should be an appendix to this document).	17 [PP-1]

weekends? Is virtually every law enforcement or fire department already fully utilized? If so, even a small change can have a significant impact. The DEIR does not describe existing conditions or compare them to "capacity" of a resource, but simply repeats descriptions of an area (e.g. Ft. Mason, Alcatraz, etc. are former military buildings, etc.). It is also unclear how you can conduct an adequate cumulative impacts analysis, as the combined impact of adding hundreds of cars or tens of thousands of visitors to NPS park lands already at capacity for parking, use of promenades or beaches, etc. would require knowing what current conditions are for each resource at each park location. 13 [INT-2] cont.

In summary, although the DEIR does include some good information, we find it lacking in many important respects, including inadequate geographic scope, insufficient analysis, a reliance on a narrow definition of physical change and significance and unclear commitments to mitigation and future planning. We are happy to continue to work with you on supplying information, identifying mitigation measures and reviewing your updated drafts as needed toward the end of insuring that these are addressed adequately and appropriately in your FEIR. 14 [GEN-1, GEN-3]

Sincerely,

Frank Dean
General Superintendent
Golden Gate National Recreation Area

Craig Kenkel
Superintendent
San Francisco Maritime National Historical Park

Enclosure

1	1.1.3, page 1-10, para 2		Shared Uses: Where is the impact analyses on traffic, post event, of this continued use with up to 100 shared use events occuring along with Embarcadero at this location, on all the commute traffic to and from, and the adjacent businesses and uses along the waterfront?	18 [TR-13]
1	1.1.3, page 1-10, para 3		Amendment of Special Area Plans: as the documents that will "resolve conflicts that would arise from the proposed development of the Cruise Terminal Project..." these draft changes should be made public as part of this impact analyses for public comment and determination of adequacy.	19 [PP-1]
	1.2, page 1-11, para 1		Environmental Impacts and Mitigation Measures: NPS regulations and policies are not adequately represented herein, nor in the entire document, to assess impacts, including NPS Management Policies 2006, NPS Directives Order-12, NPS Organic Act of 1916, General Authorities Act of 1970 with amendments of 1978, GGNRA enabling legislation of 1972, SAFR enabling legislation, International Migratory Bird Act, the Code of Federal Regulation, espcially 36CFR, and Local Compendium of Federal Regulations.	20 [PP-3a, BIU-3]
	1.3, page 1-13, para 4-5		Open Ocean Alternative: Very misleading statement that "all other aspects of this alternative would be the same" is not true since primary spectator venues such as Crissy Field would not be nearly as impacted since there would be no race viewing,and therefore much less visitation and impact on parklands and waters, Also, the race course would not conflict in any way with Alcatraz access, which right now is a "significant" impact that is not mitigated herein the DEIR! This 2nd paragraph then goes on to suggest that "Many impacts...would be largely identical to those of the proposed project" before stating that it would avoid impacts on recreational, biological, historic and transportation..."In the third paragraph under this seciton, it then goes on to state that because the boats are not currently being designed to race in the ocean they could not address safety concerns. Shouldn't boat design have taken into account options/alternatives for where they might be racing, rather than assume they could in Bay since all other races have been held in ocean? Not clear if this is being stated as not viable or reasonable alternative then.	21 [AL-3]

1	Table 1-3, page 1-18, Section 5.2, Land Use Impact LU-2		Impact LU-2: Conflicts with existing NPS plans, policies, regulations and uses for NPS lands and waters are Significant Impacts requiring Mitigations. For example, on water race management plans for use of Personal Watercraft for officiating, and Helicopters for both TV viewing and GPS of race boats conflict with NPS management regulations and policies within NPS marine boundaries as well as applicable land use plans for resource protections on Crissy Field and Alcatraz. The intensity and duration of this event program--an estimated AC34 spectators of over 80,000 at Crissy Field, for example, or more than double current uses at SAFR on peak weekends, requires by NPS regulation and policy the establishment of an Incident Command Team to manage access, resource protection and visitor use and safety with full cost recovery and restoration costs by the event sponsor(s). Public access to NPS parklands must be maintained(such as Alcatraz), as well as such uninterrupted access by NPS staff, concessions staff and all other park partner program staff throughout an event by NPS regulation. Nowhere are these adequately identified nor addressed herein this DEIR as impacts, and as such are considered by NPS as signficant adverse effects of the event unless mitigated wtih performance commitments . They must be identified with adequate Mitigation to avoid a significant or potentially signficant adverse impact as they conflict with NPS plans, regualtions and policies as currently described.Therefore, NPS disagrees with the threshold determination of LTS. Rather it is SUM unless performance commitments are made in this EIR to the full mitigations for these impacts. Without major mitigations identified for each of these(for example, deployment of an NPS Incident Command Management team, establishment of marine, regulated management zones around NPS marine areas, and performance committments to insure staff and visitor acess), this would be Significant and Unavoidable Impact(SUM);however, with these and other commitments to performance measures, it could be "Less than Significant with Mitigation(LTSM)."	22 [LU-6]
			Impact LU-3: Significance impacts: of estimated AC34 spectators of over 80,000 to character of Crissy Field's natural and cultural resource areas, and diverse recreational uses, as well as to those of SAFR, are not adequately identified or analyzed, and would not be mitigated. NPS therefore disagrees with DEIR threshold determination of LTS.	23 [LU-6, RE-1]

	page1-32	Impact TR-1-12	Intersections: Mason Street intercections both in, and leading to, Crissy field must also be analyzed as it would also operate at LOS F if not mitigated, as would Crissy Ave and Mason Street on Crissy field. This is true for all other access roads to Crissy field, as well as north of the bridge for access roads to Ft.Baker, Conzelman rd in the Marin Headlands, and along Alexander Avenue with Danes and 101 exit, as well as for entry into Ft.Cronkhite tunnel to Rodeo beach and Headlands sites. These intersections adn thier analyses cannot be simply written off as like for Fleet WEek;they must be analyzed for the unique racing days and season for AC34, and particular mitigaitons identified(inlduing the establishment fo an Incident Command Management team as part of a larger Unified Command wtih City, USCG, Event Authority and NPS)to avoid any adverse impacts on visitor access to parklands, public circulation in the area including that of staff and residents, as well as to avoid the physical impacts of crush of cars and attempts at parking anywhere on parklands otherwise. Mitigations: As identified above, an NPS ICM team is critical to mitigating signifcant impacts to NPS areas and park access in general. In addition, an Integrated Transportation Operations Team must be identified as a mitigation commitment as part of a broader Unified Joint Command to manage the transit shuttle operations and shuttle stops upon triggering of direct visitation management strategies when visitor capacity thresholds are being reached, according to an NPS incident Command team, in key sensitive NPS park areas, and either resources, public safey or visitor enjoyment are threatened. Without such performance commitments and mitigations above herein this EIR document, the analyses is inadequate and recurring references to the People Plan lacking and incomplete such as to not be able to judge the actual impacts of this event.	24 [TR-3b]
1	1-32		Mitigation Measure M-TR-1: People Plan Specific Provision needs to include impact on Alcatraz Island Ferry service. How will public access to Alctraaz be accommodated and insured during race periods? How might visitation be impacted to the island, otherwise? What unstated accommodation is the public expected to make with ferry service? It currently runs every 30 min through what would be the race area.	25 [TR-7a]

	page 1-35	Impact TR1-18	See above-Presidi-Go shuttle service is very inadequate both in capacity and in routing to service the many visitors to Crissy field directly, especially with the Doyle Drive impacts that will cutoff most of the Main Post and Letterman areas from Crissy field for pedestrians and bikers. Alternate routing of east-west, and Bart to Park shuttles must be able to drop and to pick up visitors directly on Mason Street along Crissy field and further west near NOAA and Warming Hut with turnaround back same way with enough frequencies(no more than 10-15 minutes) and a transit operating plan for NPS sites to address forecasted demands all day of race days for Fridays, Saturdays and Sundays with supplemental service during peak times of 1-4PM on other race weekdays. In addition, an Integrated Transportation Operations Team must be identified as a mitigation commitment as part of a broader Unified Joint Command to manage the transit shuttle operations and shuttle stops upon triggering of direct visitation management strategies when visitor capacity thresholds are being reached, according to an NPS incident Command team, in key sensitive NPS park areas, and either resources, public safey or visitor enjoyment are threatened. Another important mitigation will be providing for an east-west, and return, shuttle along the northern waterfront with less than 10 minute frequencies during the above Friday, Saturday and Sunday peak periods(10-5) to address the need to move along waterfront to other venues, such as NPS park areas, in lieu of travel by cars. Again, shuttle stops can be operated for stops where NPS agreed upon visitation thresholds, which need to be analyzed for CEQA, have not been reached in a particular park area. Without such performance commitments and mitigations above herein this EIR document, the analyses is inadequate and recurring references to the People Plan lacking and incomplete such as to not be able to judge the actual impacts of this event.	26 [TR-7b]
	1-38	Impact TR-22	Add under Mitigation measures the GG transit be allowed to also stop at federal sites including Trust,and NPS sites(Ft.Mason, Marina and Crissy) in SF on way back to Marin county to improve inter-county transit from park sites for both employees and visitors.	27 [TR-6a]
1	1-41		Mitigation Measure M-TR-1 currently does not include language about addressing Alcatraz Island Ferry. The island receives approx. 5000 visitors per day and would be significantly affected.	28 [TR-7a]

	1-44	Impact TR59-61	Mitigation measures outlined in People Plan inadequately explained with not enough detail to assess adequacy of mitigation to impacts on NPS parklands and visitors. Requires more detailed transit plan for NPS areas, road management for access to NPS Areas, and express NPS transit shuttles that do not have to go thru several other neighborhoods and/or bifurcated Presidio during Doyle Dirve reconstruction to access Crissy field, FT.Point, West Bluffs, etc.	29 [TR-2f]
	1-45	Impact TR71	Disagree that less than significant impacts on transit operations in Marin Headlands and FT.Baker due to little transit there now,and weekend race day needs to close Conzelman as well as East road into Ft.Baker for extended periods, along with FT.Cronkhite/Barry tunnel managed access, where new transit operations would be only mitigation to allow adequate public access during weekends.	30 [TR-7c]
	1-45-46	Impact TR 71-75 and 77, 79	See above TR 29-34, and 36 for 2012, and expand for 2013 AC34 season and spectator estimates.	31 [TR-2a]
	1-46	Impact TR83	Disagree with Significance Finding of LTSM. Will affect traffic with increased cruise terminal activities along Embarcadero, and does not address significant impacts on Alcatraz access by public during this period to Pier 31 and 1/2 for embarkation, nor access to island throughout the event program!	32 [TR-13]
	1-51	Impact NO-2	Does not address impacts of helicopters or event proposed uses on Crissy or SAFR human environment and speech/communication which begins to be interfered with at 60 decibles; and directing of speaker systems toward the Bay at park sites then will affect sensitive natural resources such as birds.	33 [NO-3, NO-4]

	1-66	Impact PS-1-3	Disagree with significance thresholds of LTS and NI respectively. Physical impact is defined by CEQA as physical change which would occur on many park sites at significant level without Major Mitigation required of funding NPS Incident Command Management Team and Park Operations Plan that can manage EMS, fire, law enforcement, and other related dispatch and resource requirements throughout the event program season for each park area affected, directly and indirectly including: Marin Headlands(eg. Conzelman rd, Ft.Cronkhite, and Ft. Barry), Ft.Baker, Crissy Field(West and East), FT. Point, Presidio Bluffs to GG bridge area, Ft.Mason, SAFR, and Alcatraz, as well as those areas indirectly affected by displacement.	34 [PS-3]
1	1-70		EIR should acknowledge that Alcatrz also has natural vegetation communities along West shore that should get signage and patrols.	35 [BIU-1]
1	1-72		Mitigation Measure M-BI-4b. Buffer needs to include one around Little Alcatraz. Need to include language about non-motorized spectator vessels such as rowing boats, kayaks, sailboats. These may cause greater distress to nesting birds than motorized vessels.	36 [BIU-1]
1	1-73		Mitigation Measure M-BI-4e. The emphasis on no event related public visitation is excellent. Required signage for nesting seabirds is excellent idea.	37 [BIU-1]
1	1-78		Mitigation Measure M-BI-12. Excellent information. Must include language of buffer around Alcatraz and little Alcatraz island. This is a haul out or harbor seals. In fact, buffer areas should include all harbor seal haul out areas along the race route: Alcatraz, Angel Island, along Marin Headlands shoreline.	
1	1-79		Mitigatin Measure M-BI-14. Humpback whales unlikely. More likely to have Gray Whales. Regardless ... all whales should be included, not just certain species - in case a certain species shows up.	38 [BIM-3a]
1	3-3		Project action should include some information about test and practice for the yachts on the Bay. Yachts and spectator boats should be subject to same restrictions as during race events, as there could be impacts associated with these activities.	39 [PD-1]
1	3.15	map	The area within the boundary for San Francisco Maritime NHP (SAFR) is incorrectly listed as "GGNRA Lands". That area is SAFR land. Also, Hyde Street Pier is owned by the Port - leased to SAFR. The two rowing clubs are on Park and Recreation Land.	40 [PD-3]
1	3-15		Figure 3-7. GGNRA Fort Mason and SAFR boundaries need to include our SF Bay jurisdiction/boundaries	41 [PD-3]
1	3-16		Figure 3-8. Crissy Field and Presidio. GGNRA boundary includes offshore tide and submerged lands to 300 yds, boundary is 1/4 mile.	

1	3-62		Change caption to read "Proposed Fort Baker Pier at Fort Baker Venue Plan"	41 [PD-3] cont.
1	3-81		Anchoring system at Fort Mason? Where specifically, and what on-water or on-land features would be included in this?	
	3-81	Table 3-12	Last line- Anchoring System Installation at Fort Mason. Waters are not within Fort Mason Center (FMC) Lease or Cooperative Agreement (CA) and would require a separate special use permit from NPS consistent with our policies [this is noted later in 5.2-26]. Apron use is for public access and is currently within FMC's CA. Water and apron uses may require a BCDC consistency determination. Project proponents should also consider adding temporary berthing facilities within GGNRA in support of the People Plan	42 [PD-6]
	3-87	2 and 3	People Plan references possible partial street closures. NPS and Park Partner operations could be impacted. To adequately comment, NPS needs to know what streets and when. The People Plan will examine water-oriented transportation services including ferry and excursion access to potential secondary viewing areas such as Treasure Island and Angel Island. AC34 should also consider water-oriented transportation to Crissy Field Torpedo Wharf, Fort Baker Pier, and Pier 2 at Fort Mason. People Plan needs to include Golden Gate Bridge Highway and Transportation District because of its superior spectator locations, use of bus and ferry transportation facilities during non-peak hours for commuters.	43 [PD-7]
	3-87 and 88	last & 1st respectively	Park Event Ops Plan should also include Golden Gate Bridge Highway and Transportation District as a responsible jurisdictional authority.	44 [PD-7]

1	4.2.2, pg 4-7		Section references Plans and Policies and should include Golden Gate Bridge Highway and Transportation District (GGBHTD). Per the Comprehensive Annual Financial Report for 2009 and 2010, GGBHTD is a special district of the State of California formed under the Bridge and Highway District Act of 1923 and is subject to regulation under this act. Assembly Bill 584 authorized the District to develop and implement a mass transportation program including bus and ferry transit.	45 [PP-3b]
	4-3		List of relevant Federal plans and polices is inadequate. Should include for NPS plans: 1993 Alcatraz Development Concept Plan EA/FONSI, Presidio Trust Management Plan and General Amendment, 1999 Golden Gate National Recreation Area Natural Resource Management Plan, Crissy Field EA, 2001 Vegetation Management Plan, Presidio of San Francisco, 2001 Alctraz Island Historic Preservation and Safety Construction Program; and the Endangered Species Act, Migratory Bird Treaty Act, Marine Mammal Protection Act, Magnuson-Stevens Fishery Conservation and Management Act and Essential Fish Habitat Designation, Airborne Hunting Act, and the Park Compendium for Golden Gate National Recreation Area.	
1	4-3		Need to correctly quote the National Park Service Organic Act - "...historic objects and the wild life therein..." (wild life is two words, not one).	46 [PP-3a, BIU-3]
1	4-3	5	Section 4.2 Plans and Policies Relevant to the Project – While the DEIS cites and describes the NPS Organic Act of 1916 on page 4-3, it omits a citation and description of GGNRA's enabling legislation set forth in 16 U.S.C. 460bb. This statute provides park-specific statements of purpose that are relevant to the project that are not provided in the Organic Act. The DEIR should be revised to cite this statute and provide additional legal framework. This is particularly important since on Page 4.4, third paragraph, a reference is made in general terms to the "establishing legislation or proclamation of the park" when the DEIR discusses when an impact would constitute an impairment. Citation of this statute would also be required to prepare the analysis of recreation impacts in Sections 5-11, 5-13, and 5-14. The DEIR needs to analyze 16 U.S.C. 460bb and identify any conflicts with the AC34 project. This comment would also apply to Section 5.11.2.1.	

1	5.2	Overall	We do not agree that NPS sites have the capacity that is identified in the DEIR. There is no analysis in the DEIR that demonstrates otherwise. The event size and duration would have significant impacts on Land Use and Recreation as proposed. Bringing an additional 77,000 – 83,000 visitors a day to Crissy Field, for example, would displace a majority of existing recreational users both during the event, and following the event due to the site and facility repairs and rehabilitation that would be required. In addition, sites nearby that would likely see a significant increase in visitor use, such as Baker Beach, would also be expected to have significant recreational impacts, as well as the degradation of recreational sites, resources and facilities as a result of this significant increase. The Crissy Field Plan/EA/FONSI identifies "small to medium sized events" to be accommodated on the airfield. These impacts to Land Use (inconsistency with an approved plan) and recreation need to be further quantified and analyzed in the EIR, and mitigations identified, including management of event size and activities within the capacity of the proposed NPS event venues, as well as management of other NPS sites expected to see increased due to displaced recreational users.	47 [LU-6]
1	5.2	Overall	Many of the recreational uses on NPS lands that would be impacted by the event are unique bay waterfront uses that are not replicated elsewhere in San Francisco, including safe beach recreation and access, wading and swimming in protected bay waters at Aquatic Park and Crissy Field; windsurfing, outrigger canoe launching. This is not adequately assessed or mitigated in the DEIR.	48 [RE-1, RE-2, RE-4]
1	5.2	Overall	The number and percentage of prime visitor/recreational use season weekday and weekend days that the proposed event would affect with displacement is also significant, and should be disclosed, analyzed, and mitigation included in the EIR.	49 [RE-1]
1	5.2		Add Marin Headlands as a secondary spectator venue. And, it should include mention of the extensive areas of endangered mission blue butterfly habitat.	50 [LU-1, BIU-1]
1	5.2-11	2	No mention of SAFR in Northern Shore of SF and GGNRA section - perhaps change to "Northern Shore of SF including GGNRA and San Francisco Maritime NHP"	51 [LU-1]

	5.2-25-26		Crissy Field: To support special use permits in GGNRA, the sponsors will have to provide or sponsor educational programs, not just static ACRM displays! In addition, a commitment to insuring a range of public recreational uses will continue to be accommodated within GGNRA lands and waters, with temporary adjustments for time of access and area if needed.However, this EIR must make commitment for full public access being maintained in all park areas, just not always by car and with performance commitment and provision by City and sponsors of providing frequent, convenient express transit services to parklands.	52 [LU-5]
1	5.2-26		Important to emphasize that proposed uses (weather station, satellite) must be approved. That's to say that they may not necessarily be approved if they do not meet acceptable standards.	53 [LU-5]
1	5.2-26		Alcatraz Access: no impact analyses adequately covers impacts on visitors to Alcatraz both in getting to and from the Pier 31 and 1/2 Embarkation point,and in getting to island and back. Both are deemed by NPS as significant impacts on public access to parklands. Herein the existing description must be changed to modify the erroneous statement concerning uses being exclusively for private functions such as in first sentence; and "uses will comply with NPS special use regulations for uses after normal visiting hours without displacement of the general visiting public."	54 [LU-5, RE-1]
1	5.2-26		SAFR/Aquatic Park: To support special use permit(s) in SAFR, the sponsors will have to provide or sponsor educational programs, not just static ACRM displays! In addition, a commitment to insuring the range of public recreational uses will continue to be accommodated within NPS lands and waters, with temporary adjustments for time of access and area if needed.However, this EIR must make commitment for full public access being maintained in all park areas, just not always by car and with performance commitment and provision by City and sponsors of providing frequent, convenient express transit services to parklands. Change permit needed from GGNRA to "from SAFR."	55 [LU-5]
1	5.3-9	6	Lower Fort Mason is within GGNRA, though SAFR has one Bldg there as their HQ	56 [AE-3]
	5.3-11(d)		5.3-11(d) – Crissy Field is not adequately or accurately characterized - - the EIR team should work with NPS staff to identify how to present an adequate description of these resources in the EIR.	57 [AE-3]
1	5.3-12		A 22-acre portion of the airfield was converted to tidal marsh habitat; the remainder is grass field.	

1	5.3-17		Fort Baker and Cavallo Point - only a portion of Fort Baker was "recently converted from an early 1900s Army post to the upscale Lodge at Cavallo Point". Clarify.	
1	5.3-17	4	Only the Presidio Yacht Club is at Fort Baker, not the Golden Gate Yacht Club	
1	5.3-17	5	Better to refer to the trails in the Fort Baker area rather than at Cavallo Point. East Road is not in the vicinity of Point Cavallo which is closer to Battery Yates and Horseshoe Cove. I think this is being confused with Battery Cavallo which is near East Road but is closed to the public to protect sensitive natural and cultural resources.	58 [AE-3]
1	5.3-18	Figure E.2	This is the view from McDowall Road - not Gas House Cove.	59 [AE-3]
1	5.3-19	3	GGNRA Northern SF- this description needs to include the Coastal Trail along the top of the Presidio Bluffs. Since most of the trees have been removed there are excellent views toward the GG Bridge from many locations. Baker Beach and the beach east to the GG Bridge which can be accessed from the Batteries to Bluffs Trail also has excellent views of the Bridge and water beneath.	60 [AE-3]
1	5.3-21	4	2nd line of the para. It is San Francisco Maritime National Historical Park, not San Francisco Maritime Park	61 [AE-3]
1	5.3-21	4	This section should also refer to the GMPA for the Presidio.	
2	5.2-26		Important to emphasize that proposed uses (weather station, satellite) must be approved. That's to say that they may not necessarily be approved if they do not meet acceptable standards.	62 [LU-5]
1	5.3-33	Table 5.3-2	Crissy Field - Planning objectives should be from the Presidio GMPA and Crissy Field EA, not the GGNRA General Management Plan	63 [AE-3]
1	5.3-33	Aquatic Park	Left column- No need to include the park name (which is not correct here anyway)	
1	5.3-33	Aquatic Park	3rd column- First two bullets not quite correct - change to: • The museum is a Streamlined Moderne building on the Bay • Park amphitheater faces the Bay, sandy beach and Hyde Street Pier with historic ships and maritime displays. Visitor Center next door. Then add: Lawn areas flanking the building and amphitheater provide additional viewing areas.	64 [AE-3]
1	5.3-34	Table 5.3-2	Fort Baker Pier - remove reference to US Army. Can also refer to the Fort Baker Plan.	65 [AE-3]

1	5.5-12 thru 5.5-35 and 5.39 thru 5.64		This is a general comment about these page ranges in the DEIR. These areas of the DEIR effectively comprise the effort to describe historic resources located within the C-APE. This comment pertains to how GGNRA historic resources are described in these areas. 1) The breadth of description is good in that the DEIR identifies the range of National Register of Historic Places properties on GGNRA lands that are within the C-APE. 2) The depth of the description is not adequate. In other words, more pertinent detail about specific resources within the National Register properties on GGNRA lands needs to be included in the DEIR. The most effective way to identify that detail is by employing the cultural resource studies already identified, and those to be furnished by GGNRA cultural resources staff, and to coordinate directly with GGNRA cultural resources staff. The lack of detail provided for GGNRA cultural resources is accentuated by the fact that the DEIR provides a large amount of detail for historic resources located in the Port of San Francisco. As a result, this section provides information about cultural resources throughout the C-APE in an imbalanced manner. More specific comments for these page ranges follow.	66 [CP-1]
1	5.5-15	Aquatic Park	Title- This is called "Brief History of Aquatic Park" but it is really a brief history of Fisherman's Wharf and Aquatic park.	67 [CP-1]
1	5.5-16	4	Line 3- Can you add the nearest landmark to this description?	
1	5.5-17	2	Line 6- The WAPAMA is not located at Hyde Street Pier. Suggest, " These vessels (with the exception of the WAPAMA, which is located elsewhere), along with..."	
1	5.5.26	2	Ft. Mason is both a primary venue and secondary viewing area, yet all of Ft. Mason is discussed in the primary venue sections in the DEIR. Suggest that Ft. Mason be discussed in both primary venue sections and secondary viewing sections, as appropriate. This would make treatment of Ft. Mason consistent with other areas in the park where primary venue and secondary viewing areas within the same historic district are treated in those respective sections.	68 [CP-1]
1	5.5-28	2	Ft. Point and Lifesaving Station are included here, but there is no corresponding assessment of impact on these historic properties in the DEIR.	69 [CP-1]

1	5.5.59	2	Refer to my comment about field fortification features at page 5.5.40. These features, which are not described in the DEIR, should be described in the FEIR. It will be necessary to determine where these features are described. These features have elements that constitute historical archeology, so it may be appropriate to describe them here, or reference them here and describe them in the architectural resources section.	70 [CP-1]
1	5.5.60	4	The archeological work carried out for Doyle Drive established Ca-SFr-6 and -26 as interrelated sites. They are now commonly referenced as Ca-SFr-6/26.	71 [CP-1]
1	5.5.65	9	This para, where it describes how Section 106 review will be carried out, needs to be revised. It is my understanding that the Federal agencies associated with the undertaking are carrying out Section 106 review independently with respect to their own section 106 responsibilities. That should all be described here. I can't say how the other agencies are handling 106, because I don't know. But I do know that GGNRA will be carrying out Section 106 review under its Parkwide and Presidio Programmatic Agreements (PAs). By means of email communication GGNRA has explained this to the SHPO and ACHP. I believe the Presidio Trust is carrying out 106 review for AC34 as it relates to the area of the Presidio it manages similar to GGNRA, under its PA. With respect to the Presidio, which is co-managed by GGNRA and the Trust, GGNRA has stated to SHPO and ACHP that it will consider the combined effects of AC34 on the Presidio as a whole as part of its 106 process.	72 [CP-2]
1	5.5.71	3	With regard to effects on human remains, many AC34 activities will take place on federal lands, where NAGPRA, the federal burial law, applies, and where state burial law does not apply. Thus, NAGPRA should be described in the DEIR, probably where Federal law as are described in this section.	73 [CP-2]
1	5.5.75	4	Again, refer to NAGPRA here.	

1	5.5.93	3	The bluffs above Crissy are not part of what is commonly thought of as Crissy Field, and they also appear to fall into what in the DEIR is considered a secondary viewing area. Thus, should this discussion be moved?	74 [CP-6]
1	5.5.93	5	Again, this appears to be a secondary viewing area discussion.	75 [CP-6]
1	5.5.94	2	Explain in more detail potential impacts to the Cellhouse. Would no modifications occur at all? If not, then what kinds of modification or impacts might occur? Explain.	76 [CP-6]
1	5.5.94	3	Line 7- Shouldn't say Embarcadero Historic District here.	77 [CP-6]
1	5.5-94		Note that any equipment needs to be approved by NPS before anything can be installed.	78 [CP-6]
1	5.5.95	1	This section does not adequately identify historic resources on GGNRA lands in secondary viewing areas. Here is some guidance for how to adequately id resources. 1) Identify the secondary viewing areas on GGNRA lands - Ft. Mason, Presidio Bluffs west and east of Golden Gate Bridge, Ft. Baker, Barry and Cronkhite historic district west and east of Golden Gate Bridge; 2) Identify the specific resources in these areas that could be impacted by secondary viewing - name specific coastal defense fortifications, describe specific areas of grounds/historic landscapes, describe the kinds of field fortifications and historical archeological features in these areas.	79 [CP-1]
1	5.5.97	8	In addition to earthen fortifications, indicate throughout this mitigation measure that there are other fragile historic resources that will need to be protected.	80 [CP-9b]
1	5.5.97	4	Crowd control monitors should not be volunteers but rather paid professional cultural resources monitors as well as law enforcement monitors. The purpose of monitoring shall be to stop activity that may be damaging historic resources as it happens, and to provide for immediate term adaptive management (day-to-day, week-to-week) and long-term adaptive management (2012 - 2013).	81 [CP-9b]
1	5.5.97	5	With regard to plans that will affect GGNRA historic resources, those plans shall be reviewed by GGNRA cultural resources staff for conformance with Secretary's Standards.	82 [CP-9b]

1	5.5.127	2	Line 2- PVs are not being installed on the New Industries Building on Alcatraz, just on the Main Cellhouse.	83 [CP-11]
1	5.5-127	7	As stated in other comments, portions of Ft. Mason are not venue areas proper, but rather secondary viewing areas. Thus, logically it seems as if Ft. mason should be included here.	84 [CP-1]
1	5.5-128	3	Refer to the Marin Headlands as the Forts Baker, Barry and Cronkhite historic district.	85 [CP-11]
1	5.5-130	2	Again, NAGPRA should be referenced here.	86 [CP-11]
1	5.6	Overall	After reviewing the AC34 EIR, the Golden Gate National Recreation Area is unable to adequately assess transportation impacts of AC 34. The EIR does not include sufficient information regarding existing conditions, details of transportation/event operations, or mitigation measures that will be needed to concur with the findings made in the document. Without these issues being addressed, the NPS will be unable to make findings in regards the impacts of the project. Specific comments follow:	87 [TR-2j]
1	5.6	Overall	The EIR does not adequately document baseline conditions from which to evaluate impacts and mitigation measures. The project identifies a number of AC 34 venues in GGNRA that currently experience significant visitation and associated transportation congestion and safety challenges. Any credible assessment of AC 34 impacts must document existing conditions and transportation issues to serve as a baseline.	88 [TR-1g]
1	5.6		Parking - the EIR identifies the capacity of parking in the project areas, but does not identify the utilization/available rates for Presidio/Crissy/Marina or Fort Mason/Aquatic Park subareas. These areas will be among the most impacted venues by AC 34 events. There is very limited parking in these areas, as well as in the surrounding areas/neighborhoods. In addition, the available capacity is highly utilized with very little capacity available for significant increases in visitation. This needs to be documented and evaluated against anticipated demand. Without an accurate reporting of available parking capacity, preparing adequate transportation operations plans, impact analyses, and mitigation measures will not be possible.	89 [TR-10]

1	5.6.3		The EIR does not attempt to quantify impacts to visitors or traffic, circulation etc. on NPS lands. This is a significant deficiency of the EIR that should be addressed prior to finalizing the document. Venues on GGNRA park lands will likely experience significant traffic, bicycle, and pedestrian impacts without adequate mitigation measures. This should be carefully considered as the EIR is finalized and the People Plan and NEPA document is completed.	90 [TR-2j]
	5.6.3		The impacts analysis should use the existing conditions as a baseline and evaluate impacts of AC 34 activities on all modes of transportation. It should be noted that this analysis should include both primary and secondary transportation impacts. Primary impacts should include, but not be limited to traffic congestion at entry points and on NPS property, bicycle congestion and associated safety considerations, bike/pedestrian conflict areas, vehicle/bike/pedestrian conflict areas, and road and park entry closures. Secondary impacts should include, but not be limited to congestion and operational-related impacts to law enforcement, emergency services, and visitor experience.	91 [TR-2j]
	5.6.3		The EIR identifies a number of Class I transportation impacts (*significant and unavoidable*, "SU" and *significant and unavoidable with mitigation*, "SUM") that directly or indirectly affect NPS park lands. The mitigation measures identified to reduce these impacts rely on the development of the People Plan which has not yet been released in draft for the NPS to review. Further, the EIR states that the People Plan will not reduce impacts to a less than significant level. This level of impact will not be consistent with an EA under NEPA. This should be considered as issues such as travel demand, mode split, transit mitigation, parking and other operational issues are refined.	92 [TR-2j]
	5.6.3		The traffic section is primarily focused on the road network on the approaches to the Cruise Terminal improvements, with inadequate detail on the networks most affected by AC 34 activities. Among the Class I impacts the EIR identifies, many are not quantified. While this may be sufficient for some issues, some operational impacts should be quantified in the Final EIR. Without sufficient detail on operational deficiencies the impact cannot be adequately described and adequate mitigation measures developed. Also, very significant impacts to traffic have the potential to seriously degrade transit capacity and overall operational efficiency.	93 [TR-2d]

2	5.7		The EIR does not evaluate the impacts of either helicopter or vessel noise to visitors at the park or to sensitive wildlife species. Of note, other NEPA documents have found frequent noise over the 60 dBA level to be a major impact to the visitor experience. Also, many breeding birds are particularly sensitive to noise or the presence and approach of a noisy object like a helicopter; although buffers around Alcatraz and offshore of the Crissy Wildlife Protection Area would help minimize impacts to birds and other wildlife from vessel and helicopter noise and disturbance, it may not be adequate to fully protect them. Please fully analyze the impacts of mobile boat and helicopter traffic on the visitor experience at the park and on sensitive wildlife, even assuming the 100 yard buffers are in place. Also please note that the NPS has noise restrictions on boats in waters under its management (36CFR3.15); please analyze noise levels of spectator boats to see whether they meet these standards.	94 [NO-4, BIU-4]
2	5.8-32; 5.8-35, 5.8-63	Impact Summaries	The following operational impacts are considered significant and unavoidable: AQ-4, AQ-5, and C-AQ-1 . The potential to limit emissions from private and race-support vessels should be further explored. Having a significant and unavoidable impact on air quality, even for a limited time, should not be acceptable. The National Park Service should provide a strong voice in support of air quality protection. Other mitigations should be considered.	95 [AQ-5]
2	5.11-14	4 and 5	5.11.1.1 Overview of Regional Recreational Resources (Federal: National Park Service, Golden Gate National Recreation Area) On page 5.11-14, the DEIR omits reference to park partners that are located and operate within the Marin Headlands such as the Marine Mammal Center, Headlands Institute, Headlands Center for the Arts, Hostelling International, and others as part of the recreational setting. The operations of park partners may be adversely impacted by AC34 activities, including proposed mitigation measures. These entities may also experience lower attendance and correspondingly lower revenues during AC34 event days. The description should also indicate that NPS operates fee programs, concession operations, and special park uses that could be adversely impacted by the AC34 project.	96 [RE-6, RE-8]

2	5.11-43	1 and 3	Mitigation Measure M-RE-1: Protection of Recreational Resources The proposed mitigation is inadequate and not consistent with proposed mitigation measures for other impacts related to cultural and biological resources. The crowd control element of the proposed mitigation makes reference to "crowd control volunteers." The use of volunteers to protect and monitor recreation resources of special concern is considered by NPS as an insufficient mitigation of the significant impacts identified in this section. In the case of impacts on GGNRA lands, NPS personnel for crowd control (e.g., NPS rangers and resource monitors) will be required to ensure mitigation of the impacts identified in this section in the same manner as proposed in Mitigation Measures BI-1 and M-CP-1b. The language of this mitigation is also deficient since it references only "indirect" impacts and not direct impacts that are identified in the section.	97 [RE-7]
			(continued) The language of the proposed mitigation measure should be revised to read: Crowd Control: The project sponsor shall ensure that crowd control personnel are posted at or near the recreation resources identified to be of special concern in order to manage crowd levels at those locations. The exact number, location, and timing of the crowd control staff shall be determined in consultation with the appropriate land authority where direct or indirect impacts are anticipated. Note that NPS will require NPS personnel for crowd control to protect recreational resources of special concern as part of an Incident Command Management Plan, which would be integral to any Park Events Operation Plan; and, costs associated with this mitigation measure will be incorporated into and estimated NPS AC34 Cost Recovery Budget.	

2	5.13-14 and 5.13-15	2	5.13.3.1 Significance Criteria The law enforcement role of U.S. Park Police and NPS law enforcement rangers includes protection of cultural and natural resources of the GGNRA and/or SAFR. Similarly for NPS' non-law enforcement rangers, provision of emergency medical services is only one element of ranger duties. NPS rangers also serve to preserve and protect the park's natural and cultural resources and would work with the project sponsors to implement Mitigation Measures related to Cultural and Palentological and Biological Resources, among others. Given these multiple responsibilities, derived from the policy framework set forth in Section 4.2 (as revised pursuant to these comments) and the proposed Mitigation Measures, a AC34 project impact would be significant if the AC34 project activities would result in an adverse effect on NPS' ability to provide public safety services even if physical facilities were not required since the essence of the impact would be to divert NPS personnel from their physical resource protection duties to provide additional public safety services in support of the AC34 project.	98 [PS-3, PS-5]
			(cont.) The CEQA significance criteria should be revised to add a second bulleted item as follows: - Result in an adverse impact to NPS' ability to protect physical resources due to increased demand for public safety services within the Golden Gate National Recreation Area and San Francisco Maritime Historical Park. Similarly the language in the first three paragraphs on page 5.13-15 would need to be revised to reflect this revised significance criteria. Costs associated with providing additional public safety personnel over its baseline staffing level for the purposes of protecting park resources would be considered an environmental impact in accordance with CEQA and the EIR would include mitigation measures to compensate NPS for such costs.	

2	5.14-3		Fort Baker. *Lupinus albifrons* is also present at Battery Yates. Mission blue butterflies are known to occur at Fort Baker and have been documented at Battery Cavallo.	99 [BIU-2]
2	5.14-3		Alcatraz description needs to inlcude updated information about the restored gardens, which would need to be protected from spectator impacts.	
2	5.14-3		Alcatraz. The colonial nesting seabirds and waterbirds on Alcatraz Island are a unique resource within the Golden Gate National Recreation Area. During the breeding season from February 1 through about September 15, there can be more than 2,000 nests on the Island. Waterbird species that regularly nest on the Island include Pelagic and Brandt's Cormorants, Pigeon Guillemots, Western and California Gulls, Black Oystercatchers, Black-crowned Night Heron, and Snowy Egrets. Alcatraz is a regionally significant breeding site for these waterbirds within the San Francisco Bay and for seabirds along the Central California Coast. For Brandt's Cormorants this is only one of a few estuarine sites where they are known to breed, and the only location in San Francisco Bay. This is the only site in San Francisco Bay where Pigeon Guillemots are known to nest. The Western Gull colony is the largest and the Black-crowned Night Heron is one of the largest in the Bay. The site is recognized and identified on maps by the Seabird Protection Network as one of the major seabird breeding colonies in Central California. Alcatraz also is unique as a major seabird breeding site that is accessible for viewing by the public. A small number of harbor seals haul out on Little Alcatraz at lower tides, and California sea lions have been known to haul out on the northern end of the island.	100 [BIU-2]
2	5.14-4		Aquatic Park - needs to described underwater resources - important bay-mud invertebrates such as razor clams, mussels...and California sea lions frequent the waters.	101 [BIM-1c]
2	5.14-4		Crissy Marsh - correct spelling is "sand-spurrey" for Spergularia. Remove reference to Crissy Marsh being a Special Ecological Area. San Francisco lessingia does <u>not</u> occur at Crissy Marsh - remove this text!	102 [BIU-2]

2	5.14-7		Bank swallow does not occur in project area--omit from list--nests along cliffs at Fort Funston. Add peregrine falcon, common murre, black oystercather to list with asterisks. Sanderlings, willets, and marbled godwits are some of our most common overwintering shorebirds on park beaches and could be disturbed by event spectators. Add pigeon guillemot to list of asterisked species as it nests on Alcatraz (check with Merkle but generally estimated to be 20-50 nests) and forages in the waters around the island, as do all the other Alcatraz breeding seabirds. Herons and egrets forage along the shores of the bay throughout the race area.	103 [BIU-2]
2	5.14-8		American peregrine falcon known to nest in cliffs adjacent to Kirby Cove (and formerly on north tower of GG Bridge). Peregrines frequently roost on the GG Bridge and hunt in the vicinity of the bridge. Remove bank swallows as they are out of the project area.	
2	5.14-9		Table 5.14-1 - Remove SF lessingia - it does not occur at Crissy Marsh; Marin dwarf-flax does not occur at Crissy Marsh. What about eel grass????	
2	5.14-9		SF Forktail damselfly. I believe this occurs in the ditch adjacent to Marine Drive, the road to Fort Point.	
2	5.14-9		Great Blue Heron. Individuals are known to nest on Alcatraz.	
	5.14-9, 5.14-10		Black oystercatcher. Nests at Alcatraz and along rocky cliffs of Marin Headlands and Baker Beach to Lands End areas.	
2	5.14-9		Unlikely that the Northern Harrier nests in the forests on the Presidio or in the Presidio at all.	104 [BIU-2
2	5.14-10		Double-crested cormorant does not nest on Alcatraz, though it does occasionally roost on the island or on Little Alcatraz just offshore. Allen's Hummingbird nests in Marin and there is likely suitable nesting habitat in the riparian vegetation in the bluff seeps on the Presidio. Townsend's Pacific Big-eared Bat also occurs in historic buildings and structures in Marin Headlands (as does the Yuma myotis).	
2	5.14-10		Table 5.14-1 - correct spelling of "serpentinite" (not "serpenitinite")	
2	5.14-12		Mission blue mitigations would be in Marin, not SF so would not protect the tree lupine moth. Mitigations for rare plants more likely to protect tree lupine moth. Need to check with Kristen, Darren re. Fork-tailed Damsel Fly along Marine Drive at Fort Point and if any additional protections would be needed. Possibly barricades to keep people out of the ditches???	105 [BIU-5a

2	5.14-18		List of relevant Federal plans and polices is inadequate. Should include for NPS plans: 1993 Alcatraz Developoment Concept Plan EA/FONSI, the NPS General Management Plan Amendment for the Presidio (in the 1990s, year?), Presidio Trust Management Plan and General Amendment, 1999 Golden Gate National Recreation Area Natural Resource Management Plan, Crissy Field EA, 2001 Vegetation Management Plan, Presidio of San Francisco, 2001 Alctraz Island Historic Preservation and Safety Construction Program; and the Endangered Species Act, Migratory Bird Treaty Act, Marine Mammal Protection Act, Magnuson-Stevens Fishery Conservation and Management Act and Essential Fish Habitat Designation, Airborne Hunting Act, and the Park Compendium for Golden Gate National Recreation Area.	106 [BIU-3]
2	5.14-18		The statement that there is no critical habitat in the project area (but tidewater goby at Rodeo Lagoon) is misleading as this only applies to species regulated by FWS, not NOAA. As noted later there is critical habitat for several T&E fish species that are regulated by NOAA. You might want to just reference critical habitat for upland/terrestrial species in this section and leave out reference to tidewater goby to not confuse things.	107 [BIU-1]
2	5.14-18		Migratory Bird Treaty Act - all of the species nesting on Alcatraz are protected under the MBTA, as are most bird species except for game birds and non-native species. It's misleading to only mention a couple of species here. Consult the Alcatraz construction FEIS on how we treated the breeding birds on Alcatraz under the MBTA.	108 [BIU-3, BIU-5a]
2	5.14-19		Presidio Trust Management Plan - while this may be relevant with respect to transportation and other issues, this is not the most relevant document for natural resources. This section should refer to the NPS Presidio General Management Plan Amendment. It should also reference the Fort Baker Plan and FEIS and the Crissy Field EA.	109 [BIU-3, BIU-5a]
2	5.14-20		GGNRA GMP - Text does not mention that we have a GMP we are working under that was approved back in 1980..., and this is what is being updated. It also does not reference the GMP Amendment for the Presidio or the Crissy Field EA.	110 [BIU-5a]
2	5.14-26		Remove bank swallow and SF lessingia from list of listed species to be considered.	

2	5.14-30		Not sure that we can prevent people from getting into mbb habitat at Fort Baker and the Marin Headlands. This will require efforts listed and adaptive management and impacts may still be significant.	111 [BIU-5]
2	5.14-31		Mitigation Measure M-BI-1c: Protecting the Crissy Beach Wildlife Protection Area (WPA)- what about impacts of race events, helicopters, overflights, PWCs?	112 [BIU-5]
2	5.14-31		Mitigation Measure M-BI-1d: Protecting Offshore Portion of the Wildlife Protection Area (WPA) - delete last sentence regarding reduced buffers. NPS would not agree to this within the WPA.	113 [BIU-5b]
2	5.14-31		Need to add a section for protections for Alcatraz Waterbirds. Seasaonal buoys would be installed indicating a protected zone from all vessel traffic around the southern, western and northern portions of the island. These would be located a minimum of 100 yards from the island. No race boats or PWC's within the NPS 1/4 mi. boundary. Patrols would enforce these closures. No helicopters within 1000 feet vertically and horizontally (or inside the 1/4 mi. NPS boundary) of the island. On island events would be sited and regulated to not occur in closed areas or such that they affected breeding waterbirds.	114 [BIU-5b]
2	5.14-32		No night lighting permitted in WPA or that bleeds into WPA on or offshore. Fireworks also need to be sited away from Alcatraz Island, with disturbance sensitive colonial nesting waterbirds. Delete references to Special Ecological Areas.	115 [BIU-5a]
2	5.14-33		Need to also mention coastal scrub and serpentine habitat on Presidio coastal bluffs between Baker Beach and GG Bridge.	116 [BIU-2]
2	5.14-37		Signage at wetland sites- NPS would use language other than 'keep out' - probably something like sensitive habitat, area closed but don't be specific about the language as we have a sign committee that determines appropriate verbage.	117 [BIU-5a]
2	5.14-37		Julie Thayer and Bill Sydeman at Farallon Institute also have info on cormorant rafting and foraging flocks in SF Bay. This is a significant resource that should be included.	118 [BIU-5a]
2	5.14-38		Some species on the island are also considered "special animals" by CDFG, including black oystercatcher, great blue heron and great egrets. In addition to the impacts noted, please discuss the effect of disturbance in increasing predation on the young of nesting western gulls by common ravens.	119 [BIU-5a]

A-NPS2

2	5.14-38		Need to add protections for Alcatraz Waterbirds. Seasaonal buoys would be installed indicating a protected zone from all vessell traffic around the southern, western and northern portions of the island. These would be located 100 yards from the island. No PWC's in any NPS managed waters, including off Alcatraz. Boat patrols by USCG or other regulatory agency would enforce these closures. No helicopters within 1000 feet vertically and horizontally of the island. On island disturbance monitoring of breeding waterbirds would be required, and adaptive management would be used to further reduce disturbance to the breeding birds on the island. On island events would be sited and regulated to not occur in closed areas or such that they affected breeding waterbirds. Fireworks need to be sited to minimize adverse effects to breeding waterbirds on Alcatraz.	120 [BIU-5b]
2	5.14-38		Waterbird protections also would protect harbor seals that haul out on Little Alcatraz right off the island.	121 [BIU-5a]
2	5.14-38		Impacts to Alcatraz Waterbirds may still be significant even with proposed mitigations. The AC-34 events seem to be larger than other events during the breeding season and will be repeated numerous times. In addition, waterbird response to disturbance can be heightened by environmental stress, such as poor food conditions--so if it is a bad prey year, bird response to disturbance may be greater. In addition, the birds response to disturbance can be cumulative over a season, such that repeated disturbance from AC-34 events may compound over time leading to stronger response to disturbance. There is also no mention of race event activities themselves including helicopter overflights, PWCs, the race boats, as well as potential spectator boats. In our experience it is not realistic to believe that all events will proceed as planned around Alcatraz and that sensitive areas and closures will be adequately enforced. If they were, it might be possible to reduce impacts to less than significant, but a wider buffer around the island from AC34 activities would provide better protection (e.g. 1/4 mi. NPS boundary).	122 [BIU-5b]
2	5.14-39		NPS will not allow a reduced buffer for aircraft. Will USCG cooperate to enforce closures? Is there an FAA and ACEA commitment with regard to overflights? What about PWCs? Please be specific in the commitments project sponsors will make to mitigation in the EIR.	123 [BIU-5b]

2	5.14-40		Impact B1-5. Although temporary, the impacts from the event could extend for many years after the event. For example, trampling of lupine host plants for the mission blue butterfly could take a long time to recover and affect the butterflies for many years to come, or disturbance to breeding waterbird colonies on Alcatraz may cause birds to not return in subsequent years and it may take many years to recover.	124 [BIU-5a]
2	5.14-42		Mitigation Measure M-B1-6a. All night lighting should be fully shielded and downward cast, with no escape of light into habitat or onto the water.	125 [BIU-5a]
2	5.14-44		NPS does not allow tree removal after January 1 without survey for raptor nesting.	126 [BIU-5a]
2	5.14-46		Note that City of SF now has draft guidelines for buildings and protecting migratory birds	127 [BIU-5a]
2	5.14-47		Cumulative impacts - This seems inadequate and especially for Alcatraz and possibly snowy plovers, unsupported. Review cumulative project list in Table 5.1-1.	128 [BIU-6]
2	5.14-47		Cumulative effects assessment does not adequately describe other ongoing projects, such as Doyle Drive, GG Bridge 75th Anniversary, and NPS proposed/ongoing projects at these locations.	
2	5.14-48		Could be significant cumulative impact, especially on Alcatraz, with GMP update, current construction activities on Alcatraz and AC34.	
2	5.14-51		add elephant seal. Several subadults have hauled out on Crissy Field in the WPA.	129 [BIM-1b]
2	5.14-52		1st para. and occasional elephant seals. 2nd para. There is also a year round haul-out and some pupping at Point Bonita Cove. Though outside the immediate project area it could be affected by nearshore spectator boats and aircraft/helicopter overflights.There is also a low-mid tide haul out on Little Alcatraz adjacent to Alcatraz Island.	
2	5.14-59		Add elephant seal to table	
2	5.14-65		Harbor seals also occur at Point Bonita Cove, Little Alcatraz	130 [BIM-1b]
2	5.14-66		Figure 5.14-5. Alcatraz also has herring spawning habitat on the piers.	131 [BIM-1d]
2	5.14-66		Add elephant seals.	132 [BIM-1b]
2	?		Please note that GGNRA is a federal marine protected area. Also please add that the park and Angel Island SP are part of the Golden Gate Biospere Reserve in an appropriate location in the EIR.	133 [BIM-1e]

2	5.16-13	1st incomplete	Delete the next to last sentence "Much of the system is..."	134 [HY-1]
2	5.16-13	1st incomplete	last sentence- change "operates" to "has"	
2	5.16-28	5.15.2.1	Please include NPS Management Policies 2006, Section 4.6.3, Water Quality. The protection of park water quality, particularly that of Crissy Marsh, is a high priority of the National Park Service.	135 [HY-2]
2	5.16-67-68		It isn't clear that every effort will be made to protect Horseshoe Cove water quality from sewage discharges. The park should participate in outreach to boaters regarding the regulations that apply to the Bay.	136 [HY-9c]
2	General		Need timeline and inclusions on who is working on the identified plans (e.g. Water and Air Traffic Management Plan, etc), and what will be opportunity for inclusion of NPS specific guidance, as well as review. These plans seem critical to certain areas of resource protection.	137 [PD-7]
2	General		Need to make sure that guidance is established as minimum necessary to protect resources, and that there are provisions for adaptive management and potentially strengthening or adding to resource protections, especially after learning from patterns of use and problems encountered during the first year of racing. How will this be coordinated among the various groups and agencies involved with the event?	138 [IO-4a]
2	General		All references to San Francisco lessingia should be removed form the analysis, as this species is outside the zone of potential impact (and does not occur at Crissy Field or Marsh.)	139 [BIU-5a]
4	App. TR-2		The travel demand section (Vol. 4, AppendixTR-2) identified the specific demand for each proposed venue. This forecast is not supported or tailored to the limits of the sites, consideration of resources, or other factors that may require a "managed demand" level. The capacity of the transportation system put in place for AC 34 must be made with these considerations in mind. The EIR should identify a realistic demand based on travel, resource, and other site constraint criteria.	140 [TR-2b]
4	Parking Analysis Adavant 2011 06 18	400	Lists Crissy Field parking twice (at 215 Gorgas and 99 Zanowitz) Parking at the East Beach lot will be closed and should not be included.	141 [TR-1f]

United States Department of the Interior
NATIONAL PARK SERVICE
GOLDEN GATE NATIONAL RECREATION AREA
FORT MASON, SAN FRANCISCO, CALIFORNIA 94123

IN REPLY REFER TO:
D18 (GOGA-SUPT

March 11, 2011

John Rahaim, Director
San Francisco Planning Department
1650 Mission Street, Suite 400
San Francisco, CA 94103

Dear Mr. Rahaim:

Thank you for the opportunity to respond to the Notice of Preparation (NOP) issued on February 9, 2011, concerning America's Cup (AC34). This comprises the National Park Service's preliminary scoping comments on such as it relates to NPS lands and waters.

Both the Golden Gate National Recreation Areas (GGNRA), and the San Francisco Maritime National Historical Park (SAFR), recognize that AC34 can fit within the National Park Service (NPS) mission to promote outdoor recreation and education provided some baseline conditions are met - specifically insuring both protection of our fundamental natural, cultural and scenic resources as well as a safe and quality visitor experience. Toward that end, the City and County of San Francisco (CCSF) will need to fully analyze all impacts of AC34 and its associated activities and spectators on NPS lands and waters in its CEQA document, and also prepare a National Environmental Policy Act (NEPA) document for our review and approval addressing all activities and actions affecting, or on, NPS lands and waters as described in both the Notice of Preparation (NOP), and further comments on such. The NEPA analyses and documentation of actions undertaken that will affect NPS sites must also be done to NPS Director's Order-12 and its associated regulatory standards. 142 [INT-2] 143 [INT-2]

We want to emphasize a few key points which will be further elaborated on in the enclosure and follow-up joint meetings. First, it is critical to recognize that the scope of the affected NPS areas which must be analyzed in your CEQA document is much broader than identified in the NOP. That is, NPS areas expected to be directly impacted include Alcatraz, Fort Mason, Crissy Field, Fort Point National Historic Site, Golden Gate Plaza and trail connections, the Presidio Coastal trail and bluffs, Fort Baker and Lime Point and the Marin Headlands, as well as all areas of SAFR including Hyde Street and Municipal Piers. It also includes NPS waters to its ¼ mile marine boundary from the low tideline. This includes the marine boundary around Alcatraz 144 [IO-1c]

Island, and as such will require substantial actions, including a temporary closure to marine activity within 300 feet, as well as the noticing of restricted air space within 1000 feet of the island, due to the critical nesting bird season during AC34. 144 [IO-1c] cont.

Second, the NOP presently outlines a general program for AC34 to include the season from July-September of 2012 and 2013, as well as a broad range of estimated program activities and number of spectators, not necessarily specific to each park area. To fully analyze the effects and impacts to NPS standards, it will be important to insure that a clear baseline and projected level of activity is more well defined for each park area both in terms of describing the existing conditions and anticipated change. In that context, our comments enclosed herein are conditioned on the information provided in the NOP at this time, and may require further comment upon more definition of the complete AC34 program. 145 [RE-1]

Third, NPS understands the value of a genuine partnership and relies on its project partners to insure that we meet our above stated mission goals of protection, preservation and a quality visitor experience such as in the compliance documents noted herein. As this is a project that requires additional resources that are not appropriated by Congress for NPS participation, it is critical to our working relationship and collaboration on the planning and compliance, and other phases, of AC34 that CCSF guarantee cost recovery for the staffing and additional assistance the NPS is already having to commit to AC34 during its extremely busy planning of other major projects and plans, as well as ongoing operations. The CEQA and NEPA analyses will also therefore need to identify these needs and their impacts on current NPS staff, operations and projects for the duration of both the planning and operation of AC34. 146 [GEN-2]

Finally, we look forward to following up with your staff on these enclosed comments in the coming weeks and, within the aforementioned parameters, expect to share the common goal of both preserving and protecting our national parklands, with their natural beauty and cultural heritage, while serving as a wonderful outdoor recreational opportunity for all.

Sincerely,

Frank Dean
General Superintendent
Golden Gate National Recreation Area

Craig Kenkel
Superintendent
San Francisco Maritime National Historical Park

Enclosure

Summary Concerns Across All Sites-

The National Park Service Organic Act of 1916, 16 U.S.C. §§ 1 and 2-4, and the General Authorities Act of 1970, 16 U.S.C. § 1a-1, provide overall direction for the management of national park units and provide that the NPS "shall promote and regulate the use of Federal areas known as national parks ... by such means and measures as conform to the fundamental purpose of the said parks ... which purpose is to conserve and scenery and the natural and historic objects and the wild life therein and to provide for the enjoyment of the same in such manner and by such means as will leave them unimpaired for the enjoyment of future generations." 16 U.S. C. § 1. Our highest priorities for the AC34 event are therefore to ensure resource preservation, a safe and high quality visitor experience and the free and open use of park sites at GGNRA and SAFR. **147** [GEN-1]

.

The impacts of a large and concentrated increase in visitors that will accompany AC34 has the potential to affect our ability to fully achieve these priorities as it could substantially affect natural and cultural resources, visitor safety, visitor access to the range of current activities and experiences they now enjoy, and the quality of the visitor experience itself. These impacts, as well as mitigation or alternatives to fully offset them, are important for the Event Authority and CCSF's CEQA team to analyze in the EIR.

One of the first pieces of information the NPS requires to more fully assess the potential for impact and possible mitigation measures is a substantiated forecast of increases in visitors to each park area(e.g. Crissy Field promenade, SAFR promenade, Ft. Baker Waterfront, etc.)expected as a result of AC34. This should include visitor flow analyses and modeling of the number of people estimated to come to each park area, as well as documentation of how that will differ from the current profile of visitors and uses along the NPS waterfront, on park promenades and trails and attending park programs in the affected project area. Because NEPA requires analysis of a "No Action" alternative, we need the projected visitor increase both assuming events and temporary facilities are cited on park lands (as in your Proposed Action) and if they are not (where those coming to view the races constitute the increase in visitors). A well crafted and fact-based forecast of visitor flows and visitor numbers is something we will need to understand the potential for impacts on all park resources and the park's ability to provide a safe and enjoyable experience. Elements of visitor flow include not only pedestrian traffic, but that from bicycles, cars and buses as well, requiring careful visitor use and vehicular traffic management planning and solutions. For example, how will heavy or stopped traffic be prevented, what alternative routes through the park or to events do you propose and how will park availability and visitor access be affected and preserved? Elements of an effective transportation solution to be studied include express local and regional shuttles to parklands, integration of a parklands intelligent transportation systems into the regional and city network, and parking options outside of parklands. **148** [RE-1]

Although the effects of special commercial and other uses (food and beverage, retail, hospitality or VIP tents) and facilities (e.g. moorings, building uses, TV platforms) proposed to be located on park lands as part of the AC34 program may be site specific or restricted in geographical scope, the impacts of heavy visitation regardless of uses on NPS lands and waters will extend over a more broad geographic area. Given the sustained period of activity, the excellent viewing free of charge available in the park and the normal annual increase in park visitation during the summer, the impacts on resources and on public access to the current range of quality visitor experiences and programs within the parks due to AC34 will be substantial based on the NOP. We anticipate, and want included in the CEQA analyses, the effects to all GGNRA and SAFR coastal lands and waters within SF Bay westward past the GG bridge, south to the Presidio Bluffs and Coastal Trail and north to Point Bonita and Bird Island, and to any place that visitors might find a spot to view the races (including sensitive resource areas). In addition, regular users of primary areas such as Crissy field, Aquatic park promenade, the Great Meadow, Ft. Baker and Conzelman Rd, will seek alternative park locations as they are displaced by crowds. This displacement effect must be analyzed for those sites which offer similar experiences to those directly affected by crowding to view the races, and includes areas such as Baker and China beaches and the Lands End to Eagle Point trail in the south, as well as to Pt. Bonita, Battery Alexander, Rodeo Beach, Bunker Road and the Ft. Cronkhite tunnel in the north. In addition to displacement, the effects of noise resulting from increased overflights (media and personal craft), increased marine activity and boat traffic, and from special events (fireworks, concerts, cannon firing, etc.) would have impacts that range over a larger area and which could affect wildlife and visitors. Increases in night-time lighting may also have a broad geographic impact.

149 [IO-1c]

150 [RE-1]

151 [NO-3]

152 [AE-4]

We believe the effect of crowding on park lands to view the races will be most substantial for the areas your NOP has highlighted, e.g. Fort Point, Crissy, Ft. Mason (upper and lower), SF Maritime Historic Park, Ft. Baker and parts of the Marin Headlands, as well the Coastal Trail south of the Golden Gate Bridge. For these areas, please ensure the analysis addresses the intensity of current uses, throughout the day on a representative sample of a summer weekends and weekdays with good weather, to assess the full combined impact of the crowding that is likely during the races. This will require the collection of quality baseline information at key points along the NPS waterfront corridors including the hourly number of visitors, visitor flow rates and crowding, parking use and availability in key viewing spots, car and bike traffic and pedestrian flow, visitor services, etc. for all NPS managed coastal areas along the Bay, high elevation spots in the Headlands, and other viewing spots on park lands. While we have suggested mitigation measures for some of these impacts, we expect the CEQA document will add to this list, analyze pros and cons of each, and suggest the best course of action in communication with the park. We expect also that impacts to park operations in each area will be fully analyzed and that maintenance, law enforcement and emergency access will be maintained at all times. **153** [PS-4, RE-1]

In addition to identifying the correct analysis boundary on land, the geographic scope of impact must include the nearshore area of park lands, as NPS has permitting authority over lands to ¼ mile from its shorelines as a result of both direct ownership and in areas a long-term state lease. We anticipate requiring marked buffers around Alcatraz Island (in the form of a special marine protected area of no less than 300 feet) and offshore of the Crissy Field Wildlife Protection Area to mitigate impacts to sensitive wildlife (including the western snowy plover, a federally threatened species). Additional buffers around other areas that may be affected by increased boat traffic and that have sensitive resources (Pt. Bonita, Alcatraz haul-out areas; bird nesting and roosting on Bird Island in Marin Headlands and Seal Rocks for example) would help avoid or mitigate to these species as well. In addition, we will work to create an air space restriction above Alcatraz and ¼ mile from its shoreline from July 1 to September 15 (and possibly earlier if needed to accommodate set up) that would help lessen substantial impacts of noise, human disturbance and visual impacts from boats to breeding colonially nesting seabirds. To mitigate the impacts of AC34, the Race and Event Authorities should work in collaboration with NPS to ensure that these restrictions are in place before the onset of the 2012 racing season. This is likely to include consultation with the USFWS Migratory Bird Office and the USFWS Endangered Species Office. Please also be aware that impacts from boat traffic can stir sediments and have impacts on water quality, benthic biota, coastal birds and other wildlife. **154** [IO-1c]

The EIR must also analyze the full impact of the proposed action on park operations, including projected staffing, law enforcement, emergency medical, fire inspectors, facility management, resource protection, ongoing projects and other needs both leading up to the event and during its implementation. We anticipate the need for a large influx of NPS law enforcement (due to exclusive jurisdiction in many park areas) and other professional staff to both manage additional crowding and to ensure a safe experience protective of the park's resources. **155** [PS-4]

In this same vein, we require an assessment of visitor service needs, and are concerned about the impact of increased visitation and demands on existing facilities, utilities and trails and the park's ability to supply the necessary support services, including restrooms and water. Although the park can accommodate an occasional short term event with limited duration and controlled access and numbers, in this case we anticipate (and the NOP estimates) many more visitors. Our experience also suggests visitors will stay much longer than for a typical discrete event, and will be more inclined to "camp out" in their favorite viewing spots most or all of a day, necessitating a different and more complete set of services and strategies for visitor use management. We request that CCSF bring on the technical expertise with proven track record to both analyze these needs and identify proven solutions from visitor use management and service industry to address them. **156** [UT-3, RE-7]

Please also address the degree to which an increase in AC34 related visitation would inhibit the experience of a visitor who has come to the park to see its resources for these park sites. This includes those who are here regularly to run or to bike, as well as those who have waited a lifetime to see Alcatraz. How would the availability of these **157** [RE-1]

experiences for these visitors be altered and what are options for mitigating this impact? Also, as noted above, which visitor experiences (solitude, hiking to a vista, biking on the waterfront trails and bike lanes) would be more likely to be displaced from their current use and where might they be likely to end up (e.g. street bike lanes, other nearby trails, etc.)? This is important to analyze as part of the broader effect of the AC34 program; and it will help to identify additional measures needed to ensure visitor safety and access, for both CCSF and NPS lands, as well as a quality experience (one of our mandates). **157** [RE-1] cont.

A specific example of this is the impact the races themselves as well as the changes in adjacent piersheds for intensive use as a race headquarters or visitor area would have on our visitors' continued ability to access Alcatraz Island during the races. How will race traffic be timed or located to avoid affecting continued ferry traffic from Pier 31.5-33, where the Alcatraz embarkation is currently located? Also, how will traffic and people flow be managed to preserve reasonable access to the embarkation location itself with the adjacent intense visitation and activity projected for Piers 27-29? **158** [TR-7a]

The NPS would like for AC34 activities to avoid any adverse effects (as defined by NHPA Section 106) on its cultural resources resulting from proposed AC34 activities and related increased visitor use, and so requires all significant cultural resources subject to impact from climbing, erosion, and other damage be fully protected with semi-permanent and removable fencing, additional staff or other means. Also, any action that threatens the integrity of a cultural resource may not be taken. The condition of cultural resources in the analysis area and subject to impact need to be assessed by collecting accurate baseline information (photo documentation, for example) before and after the event to ensure full repair or mitigation of any effect. This can also support the 106 compliance process required by the National Historic Preservation Act (NHPA). **159** [CP-6]

Several areas of the park have threatened, endangered or sensitive plants and animals (Crissy Field, Marin Headlands, Fort Baker, Alcatraz, etc.), including mission blue butterfly, western snowy plover, Harbor seal haul-out areas (Alcatraz, Point Bonita), seabird breeding and roosting (Bird Island, Seal Rocks, rocks west of Golden Gate Bridge) and important wildlife habitat (Wildlife Protection Area, dunes and marsh at Crissy Field, etc.). Section 7 (of the Endangered Species Act) consultation related to impacts on the mission blue butterfly habitat (Marin Headlands, Ft. Baker) and endangered plant habitat in the vicinity of the Coastal Trail and Presidio would also be required. In addition, significant investments have been made in native habitat restoration, landscaping, trail and facility construction and improvements in many parts of the park where pressure to watch the AC34 races is expected. Impacts from uncontrolled off-trail use to any of these resources can be anticipated as a result of visitor crowding and NPS waterfront sites to view AC34 events on the Bay. Mitigation in the form of secure (preferably semi-permanent and removable with stantions in the ground) fencing and/or additional NPS presence will be needed to avoid substantial impacts. Discharge from boats during the event while they are in NPS managed waters **160** [BIU-1] **161** [HY-9c]

(whether moored or moving) is a potential concern that could be mitigated with marine sanitary waste management in the bay, assessing the capacity and location of existing pump-out stations to meet demand, and education and outreach to boaters. **161** [HY-9c] cont.

Whether it is through a joint CEQA/NEPA or separate documents, the site specific effects and those to adjacent resources stemming from proposed temporary facilities and events associated with AC34 must also be analyzed. Many of these are noted in our park site comments below. In addition, there is potential for substantial cumulative crowding as "regular" summer visitors, local users of park lands, visitors attempting to view the races and a concentration of visitors attending AC34 events or occupying related facilities on park lands would occur concurrently. **162** [RE-1, RE-7]

All of the impacts above related to heavy and sustained visitor use on traffic, visitor experience, visitor safety and the park's natural and cultural resources and managed landscapes are likely to be exacerbated in locations where the Proposed Action includes events or facilities on park lands. These include Crissy, Ft. Mason, Alcatraz and the SAFR, as well as those that might be located within viewing or hearing distance from an event (such as at the Golden Gate Bridge plaza, Ft. Point, Marin Headlands, Ft. Baker, etc.). Again, we ask that the analysis of impacts be based on excellent information on expected visitor use (both overall and because of AC34 related experiences on park lands), carrying capacities of park lands (based on a study of size, resource constraints, visitor trails, systems and facilities, and limits of acceptable crowding for visitors). Alternatives and mitigation that help lessen these impacts should be identified as part of the NEPA/CEQA analysis. We are available to work with CCSF and the Event Authority to develop alternatives and mitigation for these proposed facilities or events throughout the analysis process. **163** [INT-2, UT-3, RE-1]

Finally, we note that implementation of mitigation measures associated with AC34 regardless of whether proposals or events are carried out on park lands, will themselves require some NEPA analysis and that CCSF will undertake that analysis to meet NPS requirements. We also anticipate that the Event Authority in concert with CCSF will offset any costs associated with conducting the analysis or implementing the mitigation. **164** [GEN-2, INT-2]

ALCATRAZ-

1. Several thousand colonial seabirds of several species nest, roost and/or forage on the island. These species are particularly sensitive to disturbance during nesting season, which extends from February 1 through September 15. Colonial nesting species are especially vulnerable as one major disturbance event has the **165** [BIU-5b]

potential to result in complete breeding season failure for the entire colony. These species occupy large areas of the island including the coastal cliffs as well as other parts of the island that are closed to the public during nesting season. Only those areas currently open to the public year round could accommodate viewing opportunities or facilities during the Feb 1 – Sept 15 for AC34. In addition, to protect nesting species from the impacts of the race, a 100-yard offshore buffer in the form of a marked and enforced marine protected area zone would be established around most of the island that would exclude all boat traffic throughout the nesting season. Aircraft overflights would also need to be restricted within 1000 feet of the airspace and marine perimeter (e.g. out ¼ mile) of the island. These restrictions would also ensure protection of other sensitive wildlife in the vicinity of the island, including harbor seals and California sea lions that occasionally haul out on the island or on offshore rocks. **165** [BIU-5b] cont.

2. Infrastructure on the island is extremely limited. Water transport, wastewater removal and utilities are not able to accommodate the number of proposed AC34 visitors (500-2000) beyond those (up to 5500 on a peak day) already visiting the island except after hours.

3. The entire island is a National Historic Landmark and is highly sensitive to change; more so than other historic properties. AC34 should not adversely affect the NHL or its contributing features and any modifications must be reversible. Note above that we consider a finding of no adverse effect under the NHPA Section 106 to be a constraint for all possible AC34 related facilities, events and crowding. **166** [CP-6]

4. The general public must continue to be able to visit the island for the duration of the AC34 program (e.g. existing constrains on large blocks of ticket sales exist for a single day and cannot be purchased to be sold by one entity). **167** [RE-1]

5. Given the constraints and impacts identified above, it is likely clear that any use of Alcatraz would be heavily conditioned by the park. However, it is possible that Building 64, the ferry dock, or portions of the cell house could be used for special evening events *after the island closes to visitors*, and limited use of the parade grounds using an adaptive management and monitoring approach for the period following September 15 could take place (for a final week of AC34 events, for example). Bleachers on a small part of the island (Eagle Plaza area) are also possible. During nesting season, the Laundry Building may be available for limited daytime activities that can be entirely contained within the building, however any major setup for such activities would have to occur prior to nesting season, due to its location directly adjacent to major nesting areas. Less restricted use would be possible after September 15. Impacts of proposed uses of any special event areas would, nonetheless, need to be included in the environmental analyses as to any effects on wildlife. Potential impacts to wildlife on the island would not only be associated with special events and spectator viewing opportunities, but those **168** [BIU-4]

resulting from the timing of load-in/load-out, staging, storage of equipment and materials, noise, night-lighting, changes in human use patterns, etc. These tasks would need to be complete before breeding season begins. 168 [BIU-4] cont.

6. The effects of any facility or activity, as well as any increases or displacement of "regular" visitors byV IP or media on the visitor experience and visitor use is a topic that must be addressed in the impact document. In addition (as noted above under general CEQA concerns), please address the effect of races on the Alcatraz ferry schedule, timing and ability of park visitors to access the island during both 2012 and 2013 AC activities. 169 [TR-7a, RE-1]

7. Although infrastructure is limiting, the impact of a smaller number ofV IP visitors or any other use for AC 34 on the island's water, waste and utility supply should be part of the impact analysis. 170 [UT-3]

8. Infrastructure, law enforcement and emergency access must be maintained at all areas subject to increased use as a result of AC34 races or possible events/facilities. Please include this constraint in your analysis of the effects of crowding and carrying capacities at park sites, as well as propose alternative routes, access or other mitigation to ensure visitor safety. 171 [PS-4]

CRISSY FIELD, COASTAL TRAIL, BATTERY EAST AND FORT POINT-

1. Access to the marsh area as well as dunes is prohibited now and would be prohibited during the races. However, existing fencing is not adequate to protect the dunes or the Wildlife Protection Area from encroachment at the crowd sizes expected for the AC 34 and impacts and mitigation of improved fencing by the Event Authority must be included. This would be true even without facilities or events located nearby, but is likely to be particularly problematic if venues take place in the immediate area. The park temporarily closes the beach throughout entire Wildlife Protection Area at the west end of Crissy Field on days when excessive visitation is expected, e.g. on Fleet Week weekend days, in order to protect the federally threatened western snowy plover. NPS anticipates the need to close this area on all major A34 race/event days, an impact on visitor use the CEQA and/or NEPA document should address. 172 [BIU-5a]

2. Wetland mitigation sites associated with the Doyle Drive improvements on the bluffs near Ft. Point are inadequately fenced for crowds anticipated for AC34 and need to be protected. Please analyze impacts and propose mitigation such as improved fencing to keep visitors associated with AC 34 on trails and off these sensitive areas.

3. V isitor access and flow along the Bay trail promenade and M ason street multi-use path, bike lane and road are highly important to the visitor experience and 173 [RE-1]

use of the Crissy/Ft. Point area and access must be maintained to minimize impacts. 173 [RE-1] cont.

4. Parking is available to a variety of recreation users; these uses would potentially be displaced if parking is used for AC 34 activities or to accommodate viewing crowds. Although crowding in the Crissy Field area would be substantial in any case, it may be particularly severe and problematic if venues take place in the immediate area, making crowding a cumulative effect that must be analyzed in both the CEQA and NEPA document.

5. Traffic will be heavy, and may be further restricted by road closures associated with the Doyle Drive project. Please analyze the combined impacts of these closures and increased traffic along M ason to visitors, park operations, emergency access, park programs and tenants and propose solutions to prevent gridlock and substantially reduced visitor access (e.g. a transportation plan). This is an impact of the AC34 regardless of whether it includes sites in the park and may be aggravated if venues do occur in the vicinity. 174 [TR-2h]

6. The Crissy Wildlife Protection Area to the west of the marsh and along the beach/offshore area is set aside for the protection of shorebirds, and in particular the western snowy plover (a federally threatened species), which occupies the area from July through M ay. Although the park has some gates to keep visitors out now, these are unlikely to be adequate given the crowd sizes expected and analysis of impacts and mitigation is needed. Also, these sensitive resource areas may be particularly vulnerable to activity on nearby parklands (Crissy airfield for example), so impacts of noise, light and human activity even on nearby areas should be analyzed for effects on wildlife and other affected resources in these areas. 175 [BIU-4]

7. Other sensitive resources that could be affected by increased visitors include the fork-tailed damselfly near Ft. Point, sensitive plant species (such as behind the dunes), and restored areas.

8. Ft. Point, Crissy Field and Battery East are all part of a National Historic Landmark and are highly sensitive to change, more so than for other historic properties. AC34 should not adversely affect the NHL and its contributing features. Any modifications must be reversible. Bluffs in the vicinity of Battery East and Fort Point are composed of serpentine soils and are easily erodible and potentially hazardous. Analyze the potential for erosion, landslide, safety concerns, and propose and analyze mitigation. 176 [CP-6]

9. Physical changes such as staking tents have the potential for impacts to buried cultural resources; or through visual changes on existing cultural landscapes (this would be true in any area of the park).

fencing would be inadequate to contain a large increase in visitors during race days, and degradation of habitat from off-trail use is likely. **199** [BIU-2] cont.

2. A similar type of impact from visitors moving off trail is expected to cultural resources, primarily earthworks (the vegetated slopes that cover these fortifications), located on the bluffs and slopes on the eastern coast of the Fort and in the battery areas (e.g. Battery Yates, Battery Cavallo). Adequate fencing or design to accommodate additional crowds without resource impacts would be required. Climbing on these bluffs would also affect natural vegetation through crushing and erosion of soils. **200** [CP-6]

3. Eelgrass in Horseshoe Bay, an important aquatic resource for herring habitat, is sensitive to mooring, dredging, increased turbidity or discharge. **201** [BIM-1d]

4. The Needles area (a tiny island adjacent to the road to Lime Point) is a seabird nesting area that must be protected from visitors seeking views. **202** [BIU-2]

5. Existing visitor uses include fishing from the pier, biking, windsurfing, kayaking, hiking, and visitation to the Discovery Museum and Travis Sailing Center and restaurant. Parking for these visitors is limited and some is reserved (for the Coast Guard for example); during weekends all parking is filled. In addition, the park is planning road renovation and reconstruction along Satterlee Road, a project that would essentially block access and parking by AC34 viewers from reaching the coast. Please analyze the impacts of greatly increasing traffic and parking demand in the area during race days on existing access (for visitors, fishermen, bikers, lodge visitors, Coast Guard and Discovery Museum patrons, for example) and mitigation such as shuttle or bus service, facilitating the quicker timeframe for Satterlee Road construction so it completed before the races begin, etc. **203** [TR-2j]

6. Ft. Baker does not have adequate restrooms to support great increases in the number of visitors, especially if they remain for a longer time to watch several races. Please analyze a set of typical scenarios here and at other park locations where increases in visitors are expected for a typical race day. Also electricity for boats would be minimal beyond the boat house; if increased mooring or other ship related services are anticipated, additional capacity may be needed. **204** [UT-3]

7. Infrastructure, law enforcement and emergency access must be maintained at all areas subject to increased use as a result of AC34 races or possible events/facilities. Please include this constraint in your analysis of the effects of crowding and carrying capacities at park sites, as well as propose alternative routes, access or other mitigation to ensure visitor safety. **205** [PS-4]

MARIN HEADLANDS

1. Mission blue butterfly habitat exists throughout the southern Marin Headlands, with major habitat areas adjacent to, as well as upslope and downslope of Conzelman Rd, which is expected to be a prime viewing area attracting thousands of spectators, as it does during Fleet Week. Off trail travel is prohibited throughout much of this area. A Harbor seal haul-out is used year round at Point Bonita Cove. Seabirds sensitive to disturbance nest in the area from Point Bonita to Bird Island near Rodeo Beach. These resources are particularly sensitive to aircraft overflights and nearshore boat traffic. **206** [BIU-2]

2. Cultural resources, primarily earthworks such as Batteries and landscapes are common across the Headlands and may be some of the best viewing spots for the races. Without careful monitoring, fencing or staff presence, these batteries could experience damage to vegetation, erosion of soils and degradation of the quality of the structures. **207** [CP-6]

3. Ongoing major road renovation and construction in the Headlands is planned for 2012 and 2013. Traffic flow from the event in this area is a concern for safety, resource (soil erosion from parking on the side of the road, for example) and visitor experience reasons. Please ensure this topic is fully analyzed and mitigation proposed; impacts are anticipated across the Headlands including for staff and partner access, emergency vehicle access and from Bunker Road tunnel. **208** [TR-3b]

4. As with other park sites, restrooms and water are limited, as is parking. Providing these services will be important to help prevent using park lands for human waste and for ensuring the safety of visitors who may remain in the area for longer than they would normally. Security is also a potential concern throughout the viewing spots in the Headlands, as alcohol consumption, competing for view spots, off-trail use, illegal parking, etc. are all possible effects that require additional security or other mitigation. **209** [UT-3]

5. Infrastructure, law enforcement and emergency access must be maintained at all areas subject to increased use as a result of AC34 races or possible events/facilities. Please include this constraint in your analysis of the effects of crowding and carrying capacities at park sites, as well as propose alternative routes, access or other mitigation to ensure visitor safety. **210** [PS-4]

Additional site specific resource concerns for a wider geographic area (including Baker Beach, Coastal Trail south from the terminus of the Golden Gate Bridge), China Beach, Lands End, Point Bonita, Hawk Hill, Bunker Road and tunnel and potential as far as Rodeo Beach should also be identified as these areas would potentially be affected by overflight and boat traffic noise, as well as from displaced visitors. As estimates of crowding are developed and ground truthed, we will be able to better understand the degree to which indirect effects on this wider area might be of concern. **211** [IO-1c]

August 25, 2011

Mr. Bill Wycko, Environmental Review Officer
San Francisco Planning Department
1650 Mission Street, Suite 400
San Francisco, CA 94103

Dear Mr. Wycko:

The Presidio Trust (Trust) has reviewed the **Draft Environmental Impact Report (EIR) for the 34th America's Cup Races (AC34) and James R. Herman Cruise Terminal and Northeast Wharf Plaza (Case No. 2010.0493E; SCH No. 2011022040)** and is pleased to provide the attached comments for consideration in the San Francisco Planning Department's Final EIR. Our review and comments are focused primarily on potential impacts of the project that would result at Crissy Field, the largest venue proposed for AC34 spectator-related activities, and a portion of which (the area south and east of Mason Street known as Area B) is under the Trust's jurisdiction.

The Trust commends you and your consultants for the Draft EIR's overall comprehensiveness and quality, particularly given the significance and scale of the project and the time constraints for completing the document. As a member of the Interagency Working Group for AC34, we are confident that many of the concerns raised in our scoping letter of March 11, 2011 will be addressed in the relevant plans to be implemented as part of the project – primarily, the People Plan, the Parks Event Operations Plan, and Waste Management Plan – that will consider transportation, traffic, crowd management, safety, and post-event restoration. We are also assured that unresolved National Environmental Policy Act (NEPA) issues not covered in the Draft EIR, such as impacts on visitor experience and disruption to existing recreational facilities and uses along Crissy Field, will be dealt with in the federal Environmental Assessment (EA), for which we are participating as a cooperating agency.

Our active participation in both the AC34 planning and NEPA processes will help create an enjoyable experience for spectators during the AC34 events, while taking into account the needs of our own visitors, tenants, and residents, consistent with our mission and our responsibility as

01 [GEN-1, GEN-4]

34 Graham Street · Post Office Box 29052 · San Francisco, California · 94129-0052
tel (415)561-5300 · fax (415)561-5315 · www.presidiotrust.gov

COM-31

land managers.[1] We intend to continue to make staff support available and to provide information upon request for the implementation plans and the EA as project details are refined.

01 [GEN-1, GEN-4] cont.

Thank you for the opportunity to review the Draft EIR and to assist in the development of the implementation plans. If you have any questions or comments, please feel free to contact me or John Pelka, the Trust's NEPA compliance manager and liaison for the environmental review of the AC34 project. John can be reached at (415) 561-5365 or jpelka@presidiotrust.gov.

Sincerely,

Craig Middleton
Executive Director

cc: Frank Dean
Michael Martin
Joy Navarrete

[1] The Presidio Trust's mission is to preserve the Presidio (Area B) as an enduring resource for the American people. To achieve this mission, the Trust is building a community to support the park, is enhancing the Presidio's scenic, natural and cultural resources, and is forging public-private partnerships to sustain the park. The Trust integrates careful financial stewardship with preservation goals to manage the Presidio in a way that meets its specific challenges.

PRESIDIO TRUST COMMENTS ON THE DRAFT ENVIRONMENTAL IMPACT REPORT FOR THE 34TH AMERICA'S CUP RACES AND JAMES R. HERMAN CRUISE TERMINAL AND NORTHEAST WHARF PLAZA
August 25, 2011

3 Project Description

Page 3-24, Spectator Venues, Crissy Field. Crissy Field is described as having over 1,000 paved and unpaved parking spaces. While this may have been once been true, the construction easement dedicated to the Doyle Drive reconstruction project has substantially changed parking conditions in this area and these conditions will remain through the America's Cup 2012 and 2013 events. The actual number of parking spaces south of Mason Street and north of the Doyle Drive construction easement during America's Cup 2012 and 2013 events is currently estimated at 400-500 spaces, including 200-300 east of Building 640 and 200 spaces west of Building 640. However, many of these spaces are typically occupied by the uses in the surrounding buildings.

Page 3-35, Table 3-4. Crissy Field is described as the area between Pierce Street/Mason Street and the Crissy Field Center. Due to the Doyle Drive reconstruction project, the Crissy Field Center is no longer located in Building 603, but has moved to the east end of Crissy Field. Building 983, known as the "Warming Hut" or the picnic area would be a better landmark for the western end of the Crissy Field area. 02 [PD-1, PD-7]

Page 3-57, AC34 2012, Venue Plan, Crissy Field. The description of this venue includes bleacher-style seating for 6,200 spectators. Management of this seating will be an important consideration in the development of the People Plan and Parks Event Operations Plan.

Page 3-75, AC34 2013, Venue Plan, Crissy Field. The description of the Crissy Field venue is approximately the same for 2013 as for 2012, and the estimated peak day visitation is approximately the same for 2013 as for 2012. However, the overall event peak weekend day visitation is estimated to be approximately 50 percent higher in 2013 than in 2012. While it is understood that the AC Village will be in a different location in 2013 and may result in different distribution of event spectators, a contingency plan should be incorporated into the People Plan and Parks Event Operations Plan to manage crowds larger than expected.

Page 3-88, Implementation Plans, Parks Event Operations Plan. The summary of the Parks Event Operations Plan on pages PD3-6 and PD3-7 in Appendix PD-3 references a set of maps depicting GGNRA lands that provides preliminary planning information for development of the plan. The maps in the appendix show "established management zones" for Crissy Field including areas within Area B that are zoned "Open Continuity Required." While the Trust would not argue with and in fact would probably support such restrictions for all of the occupied buildings adjacent to the spectator areas, Area B is not bound by any such management zones. 03 [PD-3, PD-7]

We request input at the earliest stage of the plan in order to develop operational strategies for areas under our jurisdiction and to protect Trust resources and interests.

Page 3-89, Implementation Plans, Waste Management Plan. The Trust requests early input into the Waste Management Plan to ensure that sufficient portable toilet facilities and washing stations of these would be installed, pumped out, and maintained in the park commensurate with the anticipated level of visitors and spectators to minimize impacts on Area B tenants' public restrooms. The Trust also seeks involvement in the plan to review specific discard management measures to control food trash and litter control by on-land spectators to minimize impacts on Area B. Receptacles and service levels must be adequate to meet demand for the expected crowds at the Crissy Field venue. 03 [PD-3, PD-7] cont.

5.2 Land Use

Page 5.2-12, Presidio, Presidio Trust Jurisdiction and Crissy Field, first sentence under heading. The sentence should read:

*The Presidio of San Francisco is a historic military ~~installation~~ **post** ~~in the City of San Francisco~~ **and today is a national park site.***

Page 5.2-12, Presidio, Presidio Trust Jurisdiction and Crissy Field, last sentence under heading. The sentence should be deleted and replaced with the following:

~~The entirety of Presidio is in a P (Public) District and an OS (Open Space) Height and Bulk District on the City's zoning map.~~ ***The Presidio is under exclusive federal jurisdiction and therefore is not subject to state and local land use plans and policies. Lacking any jurisdiction, the City has not developed any site-specific plans for the Presidio property.*** 04 [LU-1]

Page 5.2-12, Presidio Trust Jurisdiction, last paragraph on page. The paragraph should be corrected as follows:

*None of Area B is proposed for direct use by the America's Cup Event Authority, although spectators ~~may~~ **must** traverse this area to access the Crissy Field Shoreline. ~~The~~ **Various** buildings within Area B and the proximity of Crissy Field are occupied by a sporting goods store, **local university**, rock-climbing gymnasium, indoor trampoline park, **swim school,** and ~~sports medicine facility~~ **bike shop***

5.6 Transportation and Circulation

Page 5.6-1, Setting. The intersection of Marina/Mason/Lyon is not included as a study intersection. It is assumed that it was not analyzed because it would be located within the restricted automobile access depicted in Figure 5.6-9, but this is not explicitly stated. 05 [TR-2c]

Page 5.6-23, Transit Service, Presidio Trust Shuttle Service. Note that the upcoming impacts of the Doyle Drive reconstruction project will result in significant changes to the PresidiGo 06 [TR-7b]

Around the Park route structure, and possibly have minor effects on the operating hours and frequency. 06 [TR-7b] cont.

Page 5.6-30, Setting, Pedestrian Network. A difficult pedestrian crossing near the Crissy Field venue is the intersection of Doyle Drive/Marina/Mason/Lyon. This pedestrian crossing is within the automobile restriction zone, but is also an important connection to Doyle Drive. 07 [TR-9b]

Pages 5.6-33-34, Setting, Parking. The parking supply noted for the Crissy Field area does not appear to accurately reflect the effect of the Doyle Drive reconstruction project, nor does it distinguish parking controlled by the Trust, National Park Service (NPS), or the Golden Gate Bridge, Highway and Transportation District (GGBHTD). A map of parking areas would be particularly useful in understanding parking in and near the Crissy Field area because the address convention within the Presidio is not consistent with that in the City. The Trust can assist in clarifying the parking conditions expected in 2012 and 2013; parking conditions in the Presidio are changing rapidly, however, and current conditions will have changed significantly by 2012 and again in 2013. 08 [TR-1f]

Page 5.6-44, Project Transportation Improvements Assumptions, Restricted Access. The area where automobile access will be restricted is described as north of Chestnut Street between Fillmore and Lyon Streets. It is not clear how will this restriction will affect access to Doyle Drive. If access to and from Doyle Drive and Marina Boulevard is not permitted, the management of traffic on Richardson Avenue and Lombard Street will be even more critical. Has the Draft EIR traffic analysis taken this into consideration? Access to and from Doyle Drive and the resulting effect on traffic conditions and transit operations must be considered in the People Plan. 09 [TR-3c]

Page 5.6-51, Approach to Impact Analysis Methodology, Transit Analysis. The Presidio/Crissy Field/Marina screenline does not include the MUNI 29 route. The MUNI 29 route provides service into the Presidio, and increased and extended service on this route could help mitigate or lessen the traffic impacts to the Lincoln/25th Avenue intersection. For this reason, the Trust suggests the MUNI 29 route be included in the analysis of this screenline. 10 [TR-2e]

Page 5.6-63, Travel Demand Methodology & Results, Parking Demand. The estimated parking demand for a peak weekend day in the Crissy Area exceeds 8,000 spaces, which is well beyond the capacity of the area. Many of the 400-500 parking spaces south of Mason Street and north of the Doyle Drive construction easement are typically occupied, particularly on weekends. The magnitude of this parking shortfall reinforces the need for more direct and frequent transit service to the Crissy Field area during the 2012 and 2013 events. 11 [TR-10]

Page 5.6-77 and 5.6-116, Traffic Impacts, Lincoln Boulevard/25th Avenue. The Lincoln/25th Avenue intersection is identified as having a significant and unavoidable impact in 2012 and 2013, however Mitigation Measure M-TR-1b the Transit Operating Plan does not identify any specific transit improvements in this corridor. In accordance with Mitigation 12 [TR-4a]

Measure TR-17, the Trust supports extension of the MUNI 29 route either to the Golden Gate Bridge or directly to Crissy Field. Since the MUNI 29 recently operated on such a route, reinstating the service would be straightforward. In addition to lessening the traffic impact, the additional MUNI service would help lessen the significant transit impact (ridership of 124 percent to 665 percent of capacity) across the Presidio/Crissy Field/Marina screenline in both 2012 and 2013. 12 [TR-4a] cont.

Page 5.6-77 and 5.6-116, Traffic Impacts, Lombard/Lyon. The Lombard/Lyon intersection is identified as having a significant and unavoidable impact in 2012 and 2013. If the automobile-restricted area would restrict direct access to Doyle Drive, Richardson Avenue is more likely to be congested and more motorists are likely to try to access the Golden Gate Bridge by cutting through the Presidio via the Lombard gate. In accordance with Mitigation Measure TR-17, The Trust supports additional transit service to Crissy Field, and utilization of traffic control officers at the Lombard gate and nearby stop-controlled intersections in both 2012 and 2013. 13 [TR-2f]

Pages 5.6-82 and 5.6-120, Traffic Impacts, Arguello Boulevard and Presidio Boulevard gates. The intersections of Jackson/Arguello at the Arguello gate and Presidio/Pacific at the Presidio Boulevard gate are identified as having less than significant (LTS) impacts due to AC34 events. These intersections currently operate at LOS B during Saturday midday conditions and would operate at LOS F under both 2012 and 2013 conditions. Although these impacts are identified as LTS because signalization warrants would not be met, the consideration of temporary measures such as traffic control officers should be considered as an improvement measure to manage traffic conditions in the residential areas immediately south of the Presidio. In addition, the Trust supports extension of the MUNI 43 route either to Main Post transit center or directly to Crissy Field. In addition to lessening the traffic impact, the additional MUNI service would help lessen the significant transit impact (ridership of 124 percent to 665 percent of capacity) across the Presidio/Crissy Field/Marina screenline in both 2012 and 2013. 14 [TR-2f]

Pages 5.6-86 and 5.6-123, Transit Impacts, MUNI. The Draft EIR's analysis estimates the transit demand across the Presidio/Crissy/Marina screenline to far exceed capacity, even with the additional transit service identified in Mitigation Measure TR-1b. Mitigation Measure TR-1b proposes additional MUNI service on the 30X, 30, 47L, 108, F line, E line, and MUNI Metro shuttle, but does not propose any additional service on the MUNI 28, 29 or 43 lines that could directly serve this area. The Presidio Trust supports the incorporation of additional service on extended MUNI 29, 43 and 44 routes in the People Plan. Extension of the MUNI 29 route to Crissy Field and increased frequency on the route would lessen traffic impact at the Lincoln/25th Avenue intersection and lessen transit impacts across the Presidio/Crissy/Marina screenline. Extension of the MUNI 43 route to the Presidio Transit Center or directly to Crissy Field and increasing frequency on the route would lessen transit impacts across the Presidio/Crissy/Marina screenline and lessen the LTS traffic impact expected at the Presidio Boulevard gate. Extension of the 44 MUNI route through the Arguello gate to Crissy Field would lessen the significant transit impact across this area's screenline and lessen the LTS traffic impact expected at the 15 [TR-2f]

Arguello Boulevard gate. The Presidio Trust supports incorporation of this additional MUNI service into the People Plan in accordance with Mitigation Measure TR-17. 15 [TR-2f] cont.

Pages 5.6-90 and 5.6-124, Transit Impacts, PresidiGo. Mitigation Measure TR-18 calls for operating PresidiGo Downtown service on weekends and operating additional PresidiGo service between Crissy Field and the Lombard gate on weekends. The Trust is supportive of this service and looks forward to developing an implementation and funding strategy through the People Plan. The current PresidiGo fleet is small and would need to be supplemented to run additional service. 16 [TR-2f, TR-7b]

The Doyle Drive reconstruction project will significantly restrict pedestrian access to Crissy Field from other parts of the Presidio, limiting pedestrian access to either McDowell Avenue or the Palace of Fine Arts. The People Plan will need to consider these constraints in the development of an operating plan for PresidiGo service and supplemental MUNI service through Mitigation Measure TR-17.

Pages 5.6-92 and 5.6-125, Transit Impacts, AC Transit. Mitigation Measure TR-19 includes an operating plan for additional AC Transit service, including a direct service connection between the East Bay and Crissy Field without requiring East Bay passengers to transfer at the Temporary Transbay Terminal. The Trust supports incorporation of such direct service into the People Plan, particularly given the restricted pedestrian access associated with the Doyle Drive reconstruction project. 17 [TR-2f]

Pages 5.6-96 and 5.6-126, Transit Impacts, Golden Gate Transit. Mitigation Measure TR-22 calls for additional Golden Gate Transit Service. This additional service could pick up and drop off Crissy Field venue passengers at the Golden Gate Bridge Toll Plaza and/or bus stops on Richardson Avenue. Both of these stops are several blocks from Crissy Field, and the route between Crissy Field and the Golden Gate Bridge Toll Plaza is not accessible. A portion of the soon-to-be-reconfigured PresidiGo transit service could be a good complement to this service providing direct transit service between these stops and Crissy Field. 18 [TR-2f]

Pages 5.6-103 and 5.6-129 (Transit Operations Impact due to Additional Congestion). Mitigation Measure TR-26b identifies the need for traffic control officers at key intersections in the downtown area to facilitate the efficient movement of transit vehicles. Depending on the selected management strategy of Mason Street in Crissy Field, traffic control officers may also be necessary at key intersections on Mason Street in the Presidio. 19 [TR-2f]

Pages 5.6-111, Impact TR-36 and 5.6-137, Impact TR-79 (Transportation Impacts in Combination with Other Construction Projects). The Doyle Drive reconstruction project will be underway in the Presidio during both the 2012 and 2013 events. During both years, Halleck Street and Marshall Street will be closed, substantially limiting vehicular access from the Main Post and Letterman districts to Crissy Field. In addition, the Doyle Drive reconstruction project has indicated that it will not provide pedestrian access in this area as identified in the Doyle 20 [TR-9b]

Drive Record of Decision, which will substantially lengthen the pedestrian route to Crissy Field from other parts of the Presidio. This restriction must be considered in the development of transportation strategies in the People Plan. 20 [TR-9b] cont.

Page 5.6-170, Parking Information. The parking supply noted for the Crissy Field area does not appear to accurately reflect the effect of the Doyle Drive reconstruction project in 2012 or 2013, nor does it distinguish parking controlled by the Trust, NPS or GGBHTD. The parking shortfall identified for the Crissy Field area is substantial. The considerable parking shortfall combined with the City's Transit First policy and projected transit ridership further supports the need for additional transit service to the Crissy Field area. The projected shortfall is greater on weekends, when parking demand for existing uses in the Crissy Field area is highest. The Presidio Trust supports the active management of parking within its jurisdiction, and supports parking management as an essential element of the People Plan. 21 [TR-10]

5.11 Recreation

Page 5.11-13, Crissy Field, last sentence under heading. The description should include facilities for active recreational use in Area B as noted in the Land Use section (page 5.2-12). The last sentence is of little relevance to the section and should be replaced as follows:

~~*Other facilities within Crissy Field include the Marine Sanctuary Visitor Center, the Warming Hut Café, and the West Bluff picnic area.*~~ ***Additional indoor recreational facilities exist at Crissy Field and include a climbing gym, a trampoline park, bike rental, and a swimming pool for aquatic classes, all in Area B.***

Page 5.11-15, Presidio Trust/Presidio of San Francisco, last sentence of second paragraph and third paragraph under heading. The paragraphs should be corrected for accuracy and relevance as provided below. A complete description of recreational facilities in Area B is included in the Presidio Trust Management Plan EIS, available online at http://library.presidio.gov/documents/ptip/EIS/volume1/Chapt3_community.pdf). 22 [RE-6]

The Presidio Trust manages the inland portion (approximately 80 percent) of the Presidio's approximately 1,491 acres, ***including the portion of Crissy Field from Mason Street south****; the coastal areas (approximately 20 percent), including* ***the portion of*** *Crissy Field* ***north of Mason Street****, are managed by the NPS.*

~~*Attractions at*~~ ***Recreational facilities in*** *the Presidio include the* ~~*Main Post, the San Francisco National Cemetery, the*~~ *Presidio Golf Course, the Presidio Bowling Center,* ~~*the Walt Disney Family Museum,*~~ ***Mountain Lake Park, Rob Hill Campground, the Presidio Community YMCA****, and numerous* ***playgrounds, tennis and basketball courts, multi-use fields,*** *picnic areas,* ~~*scenic overlooks,*~~ *trails,* ***and*** *bicycle routes* ~~*and camping areas*~~

Page 5.11-29, Regulatory Framework, Federal Regulations, Presidio Trust Management Plan. The section completely misses the mark by focusing on the Main Post (which will in all likelihood be completely cut off from AC34 events due to reconstruction of Doyle Drive) and open space guidelines, rather than park-wide principles and recreation. The entire section should be deleted and replaced with the following:

~~*The 2002 Presidio Trust Management Plan contains planning principles that guide the Presidio Trust to fulfill its goals of preserving and enhancing the park's resources within the Presidio of San Francisco Main Post, which is managed by the Presidio Trust. This plan also describes land use preferences for future rehabilitation and leasing of the Presidio's amenities. The following guidelines related to preservation of open space, vegetation, and views are relevant to the proposed project:*~~

- ~~*"Spatial Organization and Land Patterns Guideline: Maintain the Main Post as the 'heart of the Presidio' through rehabilitation, reuse, and interpretation of historic buildings, open spaces, and archeological resources. Consider selective placement of compatibly-scaled infill construction and/or landscape treatments to strengthen the articulation of the historic open spaces and provide a rich visitor experience.*~~
- ~~*Guidelines for Open Space/Vegetation/Views: Improve pedestrian and visual connections between the Main Post and Crissy Field. Reinforce the historic connection along Halleck Street. Incorporate an open space connection to Crissy Field as part of the planning for reconstruction of Doyle Drive.*~~
- ~~*Guidelines for Open Space/Vegetation/Views: Preserve Mason Street as an open streetscape with expansive views. Retain the 'open' setting and feel of Crissy Field; limit the introduction of vast, new landscape plantings."*~~

23 [RE-6]

The 2002 Presidio Trust Management Plan (PTMP) describes the Presidio's cultural, natural, scenic, and recreational resources, and provides planning principles that will ensure that the Presidio is preserved, protected, and enhanced for the public's benefit. The planning principles are interrelated, and taken together guide actions and decision-making by the Presidio Trust. The following principles pertaining to recreational use and special events are relevant to the proposed project:

"Recreational Use. The Trust is committed to providing diverse opportunities for both passive and active recreation, and to maintaining an atmosphere that is open, inviting, and accessible to visitors. In providing these opportunities, the Trust will consider what activities are best suited to the Presidio, and will balance recreational opportunities with resource protection. To achieve this balance, the Trust will consider the type and level of visitor use that can be accommodated while sustaining the desired resource and visitor experience conditions…

Special Events and Festivals. The Presidio's open space and recreational amenities will be managed to provide settings for public programs, activities, and events. The Trust is committed to making the park increasingly accessible to the public and will facilitate public use of the park for festivals and special events, such as marathons or bike rides. The Trust will identify ways to monitor these events and to anticipate and address potential impacts on park resources, neighbors, and the visitor experience."[2]

The PTMP Final EIS includes the following mitigation measures about how to manage visitor uses and special events, which would also apply to the proposed project:

"CO-6 Management Controls. The Trust would impose management controls on visitor uses, if necessary, to ensure that the Presidio's resources are protected. If an ongoing or proposed activity would cause unacceptable impacts to park resources, adjustments would be made to the way the activity is conducted, including placing limitations on the activity, so as to eliminate the unacceptable impacts. Any restrictions would be based on professional judgment, law and policy, the best available scientific study or research, appropriate environmental review, and other available data. As visitor use changes over time, the Trust would decide if management actions are needed to keep use at acceptable and sustainable levels.

CO-7 Special Events. The Trust would require appropriate permit conditions for special events to ensure that park resources are protected.

CO-8 Monitoring of Visitor Levels. The Trust would monitor visitation levels to ensure that park uses would not unacceptably impact Presidio resources, including visitor experience. Visitor carrying capacities for managing visitor use would be identified if necessary."[3]

23 [RE-6] cont.

5.13 Public Services

Page 5.13.16, Impact PS-1. Increased demand for law enforcement, fire protection, and emergency medical services would have economic impacts that are related to the temporary improvements at Crissy Field. For example, the Trust would incur costs should additional U.S. Park Police be required during the AC34 races and events.[4] In addition, the Trust would incur

24 [PD-7]

---

[2] *Presidio Trust, 2002, Presidio Trust Management Plan, available online at http://www.presidio.gov/trust/documents/environmentalplans/ptmp.htm, accessed August 2011.*

[3] *Presidio Trust, 2002, Presidio Trust Management Plan Final EIS, available online at http://www.presidio.gov/trust/documents/environmentalplans/final_eis.htm, accessed August 2011.*

[4] The U.S. Park Police (USPP) San Francisco Field Office with headquarters at Building 1217 in Area B is responsible for law enforcement at the Presidio. A substantial portion of funding (i.e., $4.3 million, which represents 42 percent of the total USPP budget GGNRA-wide in FY2010) for law enforcement programs within both Areas A and B comes from the Trust through an interagency agreement

costs due to increased demand for emergency medical services at Crissy Field, should temporary facilities be required and staffed out of Station 51[5] due to the large numbers of visitors anticipated. As noted in the EIR, economic costs incurred for law enforcement, fire protection, and emergency medical services for AC34 are not required to be mitigated in accordance with CEQA; nonetheless, compensation for these costs must be addressed in the Public Safety Plan. Finally, given the large crowds of spectators and staff and the delay in response times due to Doyle Drive reconstruction and road closures, the Trust encourages the America's Cup Event Authority to contract with private emergency medical and security services to augment existing capabilities at the Presidio during the AC34 events. 24 [PD-7] cont.

5.16 Hydrology and Water Quality

Page 5.16-5, Figure 5.16-2, Areas in San Francisco Served by Separate Sanitary/Storm Sewer Systems, legend. For accuracy, delete NPS and replace with ***GGNRA***, as the Trust operates the separate sanitary and storm drain system in the Presidio. 25 [HY-1]

[5] San Francisco Fire Department (SFFD) Station 51 in Building 218 on the Main Post is the closest fire station to Crissy Field and would provide the first response for fire suppression, rescue, and emergency medical services. The Presidio Trust compensated the City $3.76 million for the Presidio's fire protection and emergency medical services in FY2010 through an interagency agreement

United States Department of the Interior
OFFICE OF THE SECRETARY
Office of Environmental Policy and Compliance
Pacific Southwest Region
1111 Jackson Street, Suite 520
Oakland, California 94607

IN REPLY REFER TO
ER# 11/639

Electronically Filed

24 August 2011

Bill Wycko
Environmental Review Officer
San Francisco Planning Department
1650 Mission Street, Suite 400
San Francisco, CA 94103

Subject: Draft Environmental Impact Report (DEIR) for the 34th America's Cup and James R. Herman Cruise Terminal and Northeast Wharf Plaza Project [Planning Department Case No. 2010.0493E]

Dear Mr. Wycko

The Department of the Interior has received and reviewed the subject document and has the following comments to offer.

COMMENTS

We appreciate the opportunity that National Park Service (NPS) has had to provide input in the planning process to date. However, many of our bureaus have significant interest in the project and its impacts, and it is imperative that you engage in regular consultation with National Park Service, U.S. Fish & Wildlife Service (FWS), U.S. Geological Survey (USGS), Office of the Solicitor (SOL), and (if the Open Ocean Alternative is selected) Bureau of Land Management (BLM). 01 [GEN-1]

The following individuals are the appropriate contacts from each agency.

National Park Service
Director, Strategic Planning & Partnerships, GGNRA
Mike Savidge
Michael_J_Savidge@nps.gov
(415) 561-4725

Environmental Protection Specialist
Steve Ortega
Steve_Ortega@nps.gov
(415) 561-2841

Fish and Wildlife Service
Assistant Field Supervisor, Conservation, Restoration, and Contaminants Program
Dan Welsh
Daniel_Welsh@fws.gov
(916) 414-6704

Assistant Field Supervisor
Cay Goude
Cay_Goude@fws.gov
(916) 414-6648

01
[GEN-1]
cont.

U.S. Geological Survey
Director, USGS Pacific Southwest Area
Steve Schwarzbach
steven_schwarzbach@usgs.gov
(916) 278-9490

Office of the Solicitor
Field Solicitor
Barbara Goodyear
barbara.goodyear@sol.doi.gov

Bureau of Land Management
Manager, California Coastal National Monument
Rick Hanks
hhanks@blm.gov
(831) 372-6105

Thank you for the opportunity to review this project.

Sincerely,

Patricia Sanderson Port

Patricia Sanderson Port
Regional Environmental Officer

cc: Director, OEPC; Mike Savidge, NPS; Steve Ortega, NPS; Daniel Welsh, FWS; Cay Goude, FWS; Steve Schwarzbach, USGS; Barbara Goodyear, SOL; Rick Hanks, BLM

This page intentionally left blank

bcdc

Making San Francisco Bay Better

August 25, 2011

Mr. Bill Wycko
Environmental Review Officer
City and County of San Francisco
1650 Mission Street, Suite 400
San Francisco, California 94103

SUBJECT: Comments to the Draft Environmental Impact Report for the America's Cup Races and James R. Herman Cruise Terminal and Northeast Wharf Plaza
SCH #2007052052 (BCDC File No. MC.MC.7812.1)

Dear Mr. Wycko:

Thank you for the opportunity to comment on the Draft Environmental Impact Report (DEIR) for the 34th America's Cup Races, and the James R. Herman Cruise Terminal and Northeast Wharf Plaza. On March 11, 2011, we submitted a letter in response to the Notice of Preparation for the DEIR that included an outline of our laws and policies to be considered in the DEIR and some general comments on the projects. Thank you for incorporating our comments into the DEIR.

Below are our more specific comments on the projects based on the information provided in the DEIR, to supplement our March 11, 2011 comments.

34th America's Cup Races

1. **San Francisco Waterfront Special Area Plan**

We appreciate that the DEIR includes a discussion of the San Francisco Waterfront Special Area Plan (SAP) and recognizes the project's inconsistencies with the SAP that will require SAP amendments. However, the characterization in the DEIR of the SAP indicates that the City and County of San Francisco (City) and the Event Authority do not understand the history and role of the plan. For this reason, we are providing a brief history of the plan and how it is to be used in evaluating the project's proposal within the SAP area.

Background. The Bay Plan and SAP were amended in 2000 to alter BCDC's policies regarding fill removal and permitted use on piers. This effort provided the opportunity to comprehensively plan the waterfront from China Basin to Pier 35. The plan amendments were intended to strategically achieve the goals of the replacement fill policy, otherwise known as the 50 percent rule, rather than relying on a project-by-project approach. The amendments also set-aside the McAteer-Petris Act requirement that uses on piers must be water-oriented in these areas.

Prior to the 2000 amendment, the Bay Plan and SAP required that each project along the San Francisco waterfront that involved substantially rehabilitating a pier had to remove or provide public access on approximately 50 percent of that pier or another pier within the same geographic vicinity. By requiring that each project comply with the policy, both project and fill removal implementation was difficult and led to unreliable results. Fill may have been removed, but not in the most ideal locations. A site that was adequate for a certain project

01
[PP-1, LU-7]

State of California • SAN FRANCISCO BAY CONSERVATION AND DEVELOPMENT COMMISSION • *Edmund G. Brown Jr., Governor*
50 California Street, Suite 2600 • San Francisco, California 94111 • (415) 352-3600 • Fax: (415) 352-3606 • info@bcdc.ca.gov • www.bcdc.ca.gov

would be required to reduce its size sometimes affecting the feasibility of the project. The change in use requirements broadened the range of possible uses of the piers and increased flexibility for the Commission, the Port, and project proponents, increasing the likelihood that the San Francisco waterfront would be developed with a vibrant mix of uses that served the community and the region.

The purpose of the 2000 amendment to the SAP was to find the best locations for projects and the best locations for fill removal and, in a comprehensive plan amendment for the northeast waterfront, identify those locations and remove the requirement for each project to comply separately, which could have likely resulted in a haphazard approach to fill removal and to project design. The intent was to ensure a waterfront with open water, public plazas, public access and viable project sites that allowed uses which complemented one another while providing public spaces and views that offset the developed areas.

The SAP designates four open water basins between Pier 35 and China Basin for the purposes of creating focal points of public use and enjoyment of the Bay and the shoreline, providing opportunities for physical access between the Bay and the piers, and new and substantial Bay views. The open water basins were part of a package of public benefits that were designed to provide a balance between public benefits and development entitlements. The other public benefits include public access, public plazas and open spaces and creation of a National Register historic district. Together, these benefits were designed to result in:

- The removal of deteriorating piers that pose a threat to navigation, and to public safety and health;
- The restoration of significant areas of open water to enhance the ecological health of the Bay and to facilitate needed public recreation and access opportunities;
- The completion of a waterfront-wide, integrated public access network, guided by a policy framework for expanding public access; design policies that promote low-scale development and preserve significant Bay views, an implementation program to fund and construct the plazas and pier removals; and enhancement of Bay views and opportunities to enjoy water areas adjacent to the Embarcadero;
- The preservation of important and unique historic resources along the waterfront; and
- Development of new uses to enable public enjoyment of the waterfront, including life safety and seismic improvements and repairs of existing piers.

In order to approve an amendment to the SAP, the Commission must make the following finding: "[f]uture amendments of the SAP, as adopted on July 20, 2000, affecting the Northeastern Waterfront Area (Pier 35 to China Basin), may only be approved if the Commission finds that the revised public benefits and revised development entitlement would be in balance and the public benefits would be sufficient to warrant the Commission finding that the revised balance of public and private benefits would be necessary to the health, safety and welfare of the public in the entire Bay Area."

Inconsistencies with the Special Area Plan. The DEIR describes a project for the 34th America's Cup (AC34) event that is inconsistent with the SAP in the following ways: (1) temporary use of the Brannan Street Wharf Open Water Basin to moor team racing yachts for the AC34 events; (2) temporary berthing of large, private yachts in the Rincon Point Open Water Basin; and (3) temporary berthing of a mix of vessels in the Northeast Wharf Open Water Basin for the AC34 events. Additionally, the berthing of large private yachts is depicted as a variant in the DEIR at the Broadway Open Water Basin. The Port of San Francisco (Port) and the

01
[PP-1, LU-7]
cont.

America's Cup Event Authority Bay Plan amendment request is a proposal that, if adopted, would allow the Commission to authorize the temporary mooring and berthing of vessels in all four of the designated open water basins.

The DEIR finds that "given the short-term nature of the proposed uses of the Open Water Basins for temporary berthing for the AC34, any potential conflicts with the intended ecological benefits of these Open Water Basins as envisioned under the SAP would be less than significant" and therefore does not require mitigation. BCDC staff disagrees with the assessment that mooring vessels in all four of the designated open water basins would not have an impact and would not require mitigation. Additionally, it is important for the project proponents to understand that even if mitigation with respect to CEQA is not required, public benefits with respect to the SAP amendment will be required as part of the amendment. The public benefits that BCDC will seek as part of the proposed plan amendment are described in more detail below. Briefly, these benefits will include eliminating or reducing the number of private, spectator yachts in the Rincon Point Open Water Basin, removing fill from another location within the Port of San Francisco, and expanding public access temporarily into several locations that currently serve as parking lots in marginal wharf areas of the Port and in Fisherman's Wharf. **01** [PP-1, LU-7] cont.

Additionally, the Host and Venue Agreement for the 34th America's Cup, which is a legal agreement between the City and County of San Francisco and the America's Cup Event Authority LLC, states that the dredging of the Rincon Point Open Water Basin and the Brannan Street Wharf Open Water Basin provides the Event Authority with the exclusive right to negotiate for the long-term use of both designated open water basins as recreational marinas. While the DEIR identifies the temporary use as the subject of the environmental review, it is important to identify the long term potential to develop these open water basins. This possibility is only because of the right to negotiate long-term development rights that are triggered by dredging for the temporary uses briefly described in the DEIR and which would require future analysis under CEQA. It is also important to recognize that if the long-term proposals identified in the DEIR for three of the four designated open water basins were to occur (marinas at both Brannan Street Wharf Open Water Basin and Rincon Point Open Water Basin and an International Cruise Ship Terminal at the Northeast Wharf Open Water Basin), only one open water basin, the Broadway Open Water Basin, would remain. **02** [PP-1]

The policies for each designated Open Water Basin are different, recognizing that there are different benefits associated with each one. The public benefits and proposed amendment associated with each open water basin are described below.

- **Brannan Street Wharf Open Water Basin**

The Port and the Event Authority has requested to amend the SAP to allow temporary berthing of AC72 catamaran racing yachts and related tender/support vessels within the Brannan Street Wharf Open Water Basin. Approximately 1,600 feet of floating wave attenuators would be installed to create a temporary breakwater and anchored moorings would be installed within the open water basin for the AC72 yachts. The floating wave attenuators and moorings would be removed from the basin no later than March 2014. Based on the current proposal, the entire basin would be used for mooring yachts associated with AC34 events.

In addition to the temporary improvements and uses proposed for the AC34 events, Section 7 of the Host and Venue Agreement provides the America's Cup Event Authority LLC with the exclusive right to negotiate long-term development rights to the Brannan Street Wharf Open Water Basin, subject to separate project-level environmental review under CEQA and NEPA, **03** [PP-1, LU-7]

and all required federal, state and local approvals, including BCDC approvals. The DEIR states "possible marina developments could accommodate approximately 90 slips for boats ranging between 50 and 200 feet long in the Brannan Street Wharf Basin."

The DEIR accurately states, "the Rincon Point and Brannan Street Wharf Open Water Basins were established in the SAP to mitigate, in part, environmental effects of development provided for under the SAP by restoring significant areas of open water to enhance the ecological health of the Bay. The development of long-term marinas within the Rincon Point and Brannan Street Wharf Open Water Basins would conflict with the intended long-term ecological and public benefits of these Open Water Basins under the adopted BCDC policies for these areas. Therefore, development of long term marinas within the Rincon Point or Brannan Street Wharf Open Water Basins would be considered a significant and unavoidable impact." **03** [PP-1, LU-7] cont.

- **Rincon Point Open Water Basin**

The DEIR identifies that an approximately 1,300-foot-long by 12-foot-wide floating dock, gangways, and moorings would be installed to moor large, private yachts along the entire length of the Rincon Point Open Water Basin. In order to provide sufficient depth for the large, private yachts the open water basin would require dredging.

In addition to the temporary improvements and uses proposed for the AC34 events, Section 7 of the Host and Venue Agreement also provides the America's Cup Event Authority LLC with the exclusive right to negotiate long-term development rights to the Rincon Point Open Water Basin for a recreational marina. Dredging for the temporary use of the basin that is a part of this amendment triggers the rights to this long-term use. In reference to this long-term use, the DEIR states "possible marina developments could accommodate 425 slips in the Rincon Point Open Water Basin ranging from 25 to 50 feet long."

In the case of the Rincon Point Open Water Basin, both the temporary and long-term uses are inconsistent with the SAP and the public benefits required in the SAP. There have been no proposals that would adequately offset the impacts to the public benefits associated with this basin for either the short or long term use. In evaluating the proposal to temporarily berth large, private yachts in the Rincon Point Open Water Basin along the entire length of Rincon Point Park, staff identified many inconsistencies and concerns regarding the temporary use of the basin for the berthing of a significant number of large yachts. **04** [PP-1]

The Rincon Point Open Water Basin policies in the SAP are the most restrictive policies for open water basins, not allowing any type of berthing or mooring with the exception of the fireboats at Pier 22 ½, and possibly, non-commercial, transient berthing. This strict policy approach in the SAP acknowledges this special place along the San Francisco waterfront that is created by the slight bend in the shoreline, Rincon park, the public promenade, the views of the Bay and the Bay Bridge. The combination of the open water basin and the existing park provides a significant public space for play, quiet contemplation, viewing the Bay and other activities. It is the only place where these attributes come together along the San Francisco shoreline within the Port's jurisdiction and it is critical space for public access and Bay views. Filling this basin with large yachts and the needed land support facilities would significantly impact the public's ability to enjoy the Bay.

The AC34 events are expected to be wonderful for people to see and enjoy. However, the proposed events along the shoreline, when taken together, will significantly increase activity and thereby reduce existing views of the Bay that are currently accessible to the public. Given this increased activity, the area between Pier 14 and Pier 22 ½ provides a much-needed public space for enjoying the Bay. If filled with large private yachts, the shoreline areas would be overwhelmed with ancillary activity, such as provisioning, trips to and from the yachts, service

and waste disposal, lights, noise and other activities. In reviewing the impacts of these types of yachts, also called " super yachts", staff has read accounts where the yachts are described as large hotels or apartment buildings berthed or moored along the shoreline.

BCDC staff has suggested over the last several months that other locations should be evaluated for berthing private super yachts. Several locations have been suggested, including: (1) distributing the yachts along the waterfront; (2) moving yachts to the Broadway Open Water Basin and the area in front of the Ferry Building north of Pier 14; (3) the southern waterfront; (4) reducing the number of yachts in the Rincon Point Open Water Basin to ensure that the area in front of Rincon Point Park is unobstructed; and (5) creating public benefits to balance the impacts of using all four open water basins by removing fill at another location within the Port of San Francisco and temporarily increasing the public access along the shoreline by opening up new areas for the public to view the event and/or enjoy the Bay. Some locations that BCDC staff has suggested are the marginal wharf areas that are currently used for parking lots, an area behind or near the Ferry Buildings and the triangularly-shaped parking lot in front of the Franciscan Restaurant near Pier 43 at Fisherman's Wharf. Replacing sites that are currently being used as parking lots with temporary park facilities would provide additional public access during the event, alleviate the crowding of both spectators and other people visiting the waterfront, and increase enjoyment of the Bay and the America's Cup Event. These temporary new spaces along the waterfront, along with fill removal at an area within the Port of San Francisco, would help offset the temporary impacts of using the Open Water Basins for the event. 04 [PP-1] cont.

- **Broadway Open Water Basin**

The Broadway Open Water Basin has been identified as a variant in the DEIR to the use of the Rincon Point Open Water Basin for berthing super yachts. The policies regarding this open water basin are the most flexible. The policy states "in the Broadway Open Water Basin, existing berthing facilities for the historic Ferry Boat Santa Rosa and Bar Pilots should continue to be allowed. Limited lay berthing of public transportation and excursion vessels, up to about 300 feet in length, and temporary berthing of ceremonial and visiting ships should be allowed as long as the berthing of moored vessels is balanced with the preservation of views and the need to provide pier frontage for transient berthing." 05 [AL-3]

BCDC staff recommends that either some or all of the large, private yachts currently proposed in the Rincon Point Open Water Basin be relocated to the Broadway Open Water Basin. While there will be impacts to views, the berthing of yachts in this basin is consistent with its current use and in combination with the mitigation measures or public benefits package described above–including fill removal and temporarily increasing public access–the staff believes it will more closely achieve the balance of public benefits with the impacts associated with the project proposal.

- **Northeast Wharf Open Water Basin**

The Northeast Wharf Open Water Basin has been identified in the DEIR as a location for distributed berthing for AC34 sponsor and/or private spectator boats. The policies for the Northeast Wharf Open Water Basin state that facilities may be permitted for temporary berthing of ceremonial and visiting ships. The Port of San Francisco has applied for an amendment to the SAP that would relocate this Open Water Basin as part of the development of a Cruise Ship Terminal at this location. The inconsistencies of the proposal with the SAP are covered in the discussion of the Cruise Ship Terminal project below. 06 [PP-1, LU-7]

2. **Bay Fill**

As outlined in our previous comments and reflected in the DEIR, our Commission will need to determine that the amount of fill proposed for the project is the minimum amount necessary, that there is no alternative upland location for the placement of fill, and that the fill is limited to water-oriented uses or minor fill for improving shoreline appearance or public access. In addition, the Commission will need to evaluate the amount of temporary and permanent fill proposed and, depending on the impacts from the fill on resources, the Commission may require mitigation through fill removal elsewhere along the waterfront. Below are some of our comments regarding the proposed Bay fill: 07 [PP-2c]

- **Piers 30-32.** The amount of seismic strengthening and work proposed at Piers 30-32 should result in the minimum amount of fill necessary to support the two-year America's Cup event only. Although the DEIR acknowledges there are long-term development rights for the site, the work needed to support these uses should and would be evaluated in a separate environmental document and in future approvals. Therefore, the amount of work at Piers 30-32 should be only that which is needed to support the temporary event.
- **Barges in the Bay.** Certain proposed uses on barges, including helipads, satellite dishes, television screens, and other media operations should be relocated to upland areas whenever possible to minimize fill in the Bay. When feasible, the project should incorporate the alternatives outlined in the DEIR that reduce fill in the Bay including using the helipad at Treasure Island and placing satellite dishes on upland areas such as at Fort Mason or on pier shed buildings. 08 [PP-2c]
- **Aquatic Park.** A number of floating uses are proposed within Aquatic Park that could conflict with the swimmers and users of this area. Many of these proposed uses are non-water-oriented uses and are uses that have alternative upland locations. These uses should be moved upland.

3. **Public Access**

Although the DEIR finds that the proposed project would not cause a significant adverse impact on public access or recreational uses, we believe that impacts to public access would occur and would need to be mitigated. The proposed project would occupy and close off areas that are currently open to public access and make these areas no longer accessible to the general public. In addition, the number of spectators expected to come to the shoreline (up to 50,000 on a peak race day) will impact everyday users of the waterfront, including bikers, joggers, and local residents during event times. The proposed placement of structures up and down the Embarcadero would further constrain public access areas and result in visual impacts to the Bay. Below are our comments on the proposed project of the Bay from public areas based on these impacts to public access and views. 09 [RE-1] 10 [AE-6]

- **Maximum Feasible Public Access.** The project should incorporate a complete public access package that provides maximum feasible public access consistent with BCDC's laws and policies. This package should include both temporary access during the event and permanent, long-term access to improve the waterfront after the event is completed. These public access improvements should be provided separately from the public benefits package needed to amend the SAP, discussed above. 11 [PP-2a]
    - **Temporary Access.** Temporary access during the event is needed to provide additional "relief" areas to accommodate the number of projected visitors to the waterfront and to offset and mitigate for the closure of existing public access

areas during the event. The project proposes to provide some temporary and limited access at each of the venue sites, including at Pier 80, Piers 30-32 and Piers 27-29. These areas should be designed to maximize views of the Bay, provide open and free access to the general public that is obvious and ADA accessible, and be sited in appropriate areas of the piers and shoreline that minimize unnecessary work and provide the public an opportunity to view the event. We have provided some comments to the project's consultants on how the proposed access areas could be improved, including providing full perimeter access at Piers 27-29 and providing a wider access "area" rather than a narrow corridor at Piers 30-32 and Pier 80. We will continue to work with the applicants to ensure that these areas provide usable, functional public access areas.

In addition to these areas, temporary access during the event should be provided along the aprons of the piers proposed for repair or for event use, such as along Piers 19 and 23, along the south side of Pier 9, and, as discussed above under the "**San Francisco Waterfront Special Area Plan**" section, within marginal wharf areas along the waterfront that are currently used as parking lots and that could be transformed into small "parklets". The apron areas would provide excellent spots for viewing the event and participating in the event activities. In addition, the parklets along the Embarcadero would provide much-needed relief areas from the traffic of the Embarcadero corridor, and could be strategically sited to allow visitors a rest-spot and a location for proposed vendor carts, commercial kiosks, trash cans, and other needed facilities to minimize obstructions along the Embarcadero.

11 [PP-2a] cont.

- **Long-Term Legacy Public Access.** We fully support the City's and the America's Cup Event Authority's desire to leave a long-lasting legacy of the event after the event is over. We think the legacy will be especially meaningful with an improved shoreline and improved public access in areas where the America's Cup events take place. Therefore, we suggest that after the event is completed, improved access be provided at the Marina Green, near Piers 27-29, the Brannan Street Wharf, and within the southern waterfront, such as near Pier 80 and Islais Creek. In addition, repaired apron areas, such as along Piers 19 and 23 that provide public access during the event, should remain open and available even after the event. These long-term access areas could offset and mitigate for the local population's loss of the use of the shoreline as a result of the race events.

- **Minimizing Impacts Along the Embarcadero.** In addition to the City's efforts through the People's Plan to safely move the public through an efficient traffic and transportation scheme, additional measures are needed to minimize both public access and visual access impacts along the Embarcadero. The proposed commercial carts and kiosks along the Embarcadero should be sited and organized to ensure that they would not create additional obstructions along the Embarcadero and minimize impacts to views of the Bay from the shoreline. These uses should be tucked away in appropriate locations adjacent to existing buildings and sheds and in areas where the Embarcadero is wide enough to accommodate them. As proposed above, these areas could be within newly created parklets along the Embarcadero. Our staff will need to approve the number and location of these uses along the Embarcadero and will seek the recommendation of our Design Review Board to ensure that they are sited and designed to be consistent with our laws and policies.

12 [PP-2a]

- **Visual Impacts.** In addition to the proposed vendor carts, the number of tents, structures, recreational boats, and possible relocation of Teatro Zinzanni to Broadway could significantly block views of the Bay from the shoreline. The DEIR suggests that structures at Piers 27-29 could be up to 70 feet tall and the tents and structures proposed at the Marina Green and at Piers 30-32 would obstruct the currently unobstructed view of the Bay from public streets. All tents and structures proposed at each of the venue locations should be sited and oriented to maximize views of the Bay. Our staff and our Design Review Board will review these plans to ensure that view corridors are maintained and preserved at each of these locations, and that proposed private spectator areas do not block the use of the shoreline by the public.

13 [AE-1, AE-3, AE-6]

4. **Dredging**

According to the DEIR, the proposed project would involve new and maintenance dredging in certain locations. This includes dredging between Piers 32-36, between Piers 14 and 22½, and between Piers 28 and 30. As described in the Long Term Management Strategy (LTMS) program, material removal from "new work dredging" should be beneficially reused if possible or disposed out of Bay. The DEIR should identify the proposed beneficial reuse and/or disposal sites that would be used by this project. The disposal or beneficial reuse of the dredged sediment is not discussed in the document, nor are the project's potential project impacts to the LTMS program and the state- and federally-authorized in-Bay disposal sites, as a result of the increased dredging activities. In particular, the DEIR should identify beneficial reuse sites that are currently available and analyze the potential for additional sites to be created for this project's use.

In the Plans and Policy section of the DEIR, the LTMS program is discussed, however, it does not fully state the limits on in-Bay disposal and the current or future annual target volume limits. Through 2012, the total in-Bay disposal is limited to 1.6 million cubic yards (mcy), and beyond 2012, it will be further reduced to 1.2 mcy. In the event that new marinas are constructed as a result of this project, the cumulative impacts analysis should include anticipated future maintenance dredging need of the marinas and the future beneficial reuse/disposal of the maintenance dredge sediment. An alternative disposal site analysis would be required in the analysis of these potential future marinas.

Commission staff recognizes that the project proponents have presented the project to the Dredged Material Management Office (DMMO), and the DMMO has reviewed and approved the initial sampling and analysis plan. The Final EIR should include the results of the proposed testing, any potential impacts of dredging sediment with elevated levels of contaminants or toxicity, and measures that would be employed to minimize such impacts. The results of this study will further assist the AC34 in determining what beneficial reuse sites/disposal options are available.

14 [PP-2b, HY-4]

5. **Biological Resources**

The San Francisco Bay Plan recognizes the importance of the Bay's fish, other aquatic organisms and wildlife and contains policies protecting the Bay's subtidal habitats, native, threatened or endangered species and candidates for listing as endangered or threatened. Impacts to state and federally listed species would require an incidental take permit for the project activities. Any new work dredging is not covered by the LTMS programmatic biological opinion, and therefore would require consultation with the resource agencies prior to completing the Commission's application. Impacts to native species and habitats of special concern should be minimized as much as possible through reducing the project footprint as much as possible.

15 [BIM-4a]

Species of special concern include Pacific herring and eelgrass. Creation of temporary marinas and other activities such as temporary mooring of vessels along the San Francisco Waterfront would impact herring during spawning season as it would limit their access to their traditional spawning grounds. The San Francisco waterfront is heavily used by herring each year and increasing activity along the waterfront would likely decrease spawning in this area, reducing the overall biomass in the Bay, and potentially depressing the population in future years due to potential decreased spawning success. If future marinas in this area are constructed, they would likely have a long term impact on this population. **15** [BIM-4a] cont.

Areas with eelgrass beds should be avoided by the project, particularly for mooring of vessels. If mooring does occur in areas of eelgrass, the Final EIR should include discussion of shading impacts on this submerged aquatic vegetation and measures that would be employed to minimize potential impacts. Any mooring devices should limit drag of anchors, which will reduce impacts to both vegetation and to the benthic community.

6. **Hydrodynamic Modeling and Analysis**

The hydrodynamic modeling and analysis provided in the DEIR is extremely limited. The conclusions provided for sedimentation, salinity and water quality are not well supported. Please provide additional supporting statements for the conclusions, or limit the conclusions provided to those supported by the analysis and modeling effort. **16** [HY-6]

James R. Herman Cruise Terminal and Northeast Wharf Plaza

BCDC staff is working with the Port on the cruise terminal project and has provided guidance to the Port staff, including the advice of the Commission's Design Review Board, which reviewed the project at its May 9, 2011 meeting. We look forward to continue working with the Port to further refine the project to be consistent with the Commission's laws and policies.

1. **San Francisco Waterfront Special Area Plan/Public Access and Public Benefits**

The Port has applied for an amendment to the SAP that proposes a cruise ship terminal at Pier 27, the closure of a portion of the required Northeast Wharf Plaza public open space when a cruise ship is berthed at Pier 27, the closure of the required perimeter apron access at Pier 27 when a cruise ship is berthed at Pier 27, and the retention of the shed at Pier 23, a portion of which the SAP requires be removed in relation to development at Pier 27. The DEIR finds that "the BCDC plan conflicts associated with the cruise terminal and wharf plaza relate to public views and closure of the southern edge of the plaza during cruise ship calls, and therefore, the Cruise Ship project would not conflict with the intended ecological benefits of these Open Water Basins as envisioned under the SAP. BCDC would consider the merits of the proposed SAP amendments as part of its policy authority. As a result, the inconsistency with Port and BCDC policies and standards would be less than significant." **17** [PP-1, LU-7]

BCDC staff does not agree with the finding in the DEIR or the characterization of the SAP as a part of BCDC's "policy authority." The SAP is a component of BCDC's regulatory program and as a state agency, the SAP is a state regulation. Additionally, as described above, the Commission adopted the SAP under its health, safety and welfare authority. In order to amend the SAP, the Commission will have to find that the amendment is necessary to the health, safety and welfare of the entire Bay Area and that the amendment will result in equal or greater public benefits than those that are required in the current plan. Additionally, the open water basins were designated between Pier 35 and China Basin to mitigate for the increased development opportunities provided in the 2000 amendment to the SAP, not only for the ecological health of the Bay as characterized in the DEIR.

While the DEIR finds no mitigation is required for the inconsistencies with the SAP, in order to amend the SAP, the Port will need to provide mitigation, or a package of public benefits, that is equal or greater to those public benefits that are being impacted by the cruise ship terminal project. This public benefit package should include fill and shed removal that would result in the creation of a new open water basin that would serve a similar function and be in a similar, prominent location to the Northeast Wharf Open Water Basin that will be impacted by the new cruise terminal. In addition the public benefit package should include new public access and public spaces at Piers 19, 23 and 29, new access points to the Bay through Piers 19 ½ and 29 ½ to these areas, a portion of the Bayside History Walk in Pier 29 that is accessible from the Northeast Wharf Plaza and Pier 29 ½, and the development of public open space in Fisherman's Wharf that would increase the value of the open water basin at Pier 43. **17** [PP-1, LU-7] cont.

Thank you for providing staff with the opportunity to review the DEIR for the America's Cup Races and the Cruise Terminal and Northeast Wharf Plaza projects. We recognize the importance and scope of this project and hope these comments aid you in final certification of the EIR. We look forward to working with you and the project applicant during the permitting stage. Please feel free to contact us at (415) 352-3600 if you have any questions regarding this letter or the Commission's policies and permitting process.

Sincerely,

MING YEUNG
Coastal Planning Analyst

LINDY LOWE
Senior Planner

BRENDA GOEDEN
Dredging Program Manager

MY/ra
cc: State Clearinghouse

A-Caltrans

STATE OF CALIFORNIA—BUSINESS, TRANSPORTATION AND HOUSING AGENCY EDMUND G. BROWN JR., Governor

DEPARTMENT OF TRANSPORTATION
111 GRAND AVENUE
P. O. BOX 23660
OAKLAND, CA 94623-0660
PHONE (510) 286-5541
FAX (510) 286-5559
TTY 711

Flex your power!
Be energy efficient!

August 25, 2011

SFVAR003
SCH#2011022040

Ms. Joy Navarrete
Planning Department
City and County of San Francisco
1650 Mission, Suite 400
San Francisco, CA 94103

Dear Ms. Navarrete:

The 34th America's Cup Races and James R. Herman Cruise Terminal and Northeast Wharf Plaza – Draft Environmental Impact Report

Thank you for continuing to include the California Department of Transportation (Department) in the environmental review process for the 34th America's Cup Races Project. The following comments are based on the Draft Environmental Impact Report (DEIR).

Large Vessels Access
Section 5.6 of the DEIR analyzes surface transportation, cruise ship and ferry boat demands and the associated access related impacts but it does not examine freight demands in the form of large vessels coming into and leaving the Golden Gate to access the ports within the region. This can potentially impact freight shipping operations within the San Francisco Bay Area if large cargo vessels are prohibited from using the main access into the bay. Please provide a discussion on where these vessels will stage if they are prohibited access through the Golden Gate. 01 [PD-7]

Project Coordination
The 34th America's Cup Races, a world class event will attract a significant number of visitors from within and outside of the San Francisco Bay Area. The Department applauds the City's effort in coordinating with the Department and local transportation agencies to reduce vehicular use and provide non-vehicular transportation alternatives to this event. The Department looks forward to continuing our coordination efforts with the City and County of San Francisco. 02 [GEN-1]

"Caltrans improves mobility across California"

COM-44

A-Caltrans

Should you have any questions regarding this letter, please call Yatman Kwan of my staff at (510) 622-1670.

Sincerely,

GARY ARNOLD
District Branch Chief
Local Development - Intergovernmental Review

c: State Clearinghouse

State of California –The Natural Resources Agency
DEPARTMENT OF FISH AND GAME
Marine Region
1933 Cliff Drive, Suite 9
Santa Barbara, CA 93109
805.568.1246
www.dfg.ca.gov

EDMUND G. BROWN, Jr. Governor
JOHN McCAMMAN, Director

September 6, 2011

Bill Wycko, Environmental Review Officer
San Francisco Planning Department
1650 Mission Street, Suite 400
San Francisco, CA 94103-279

Subject: Draft Environmental Impact Report for the 34th America's Cup and James R. Herman Cruise Terminal and Northeast Wharf Project (Case No. 2010.0493E),

Dear Mr. Wycko:

The Department of Fish and Game (Department) has reviewed the Draft Environmental Impact Report (DEIR: State Clearinghouse No. 2011022040) for the 34th America's Cup and James R. Herman Cruise Terminal and Northeast Wharf Project (AC34 Project). The San Francisco Planning Department (Applicant) addresses two related projects: (1) the proposed 34th America's Cup, a series of international sailing events to be hosted by the City and County of San Francisco, and (2) the proposed James R. Herman Cruise Terminal and Northeast Wharf Plaza (Cruise Terminal). Both projects would be located primarily along the northeast waterfront of San Francisco. The AC34 Project area includes Port and City of San Francisco waterfront sites, the open water region of Central San Francisco Bay and Richardson Bay, and shoreline areas of Treasure Island, Alcatraz Island, and Angel Islands, the Marin Headlands, and the Tiburon Peninsula.

As a trustee for the State's fish and wildlife resources, the Department has jurisdiction over the conservation, protection, and management of fish, wildlife, native plants and their habitat. As a responsible agency, the Department administers the California Endangered Species Act (CESA) and other provisions of the Fish and Game Code that conserve the State's fish and wildlife public trust resources. The Department offers the following comments and recommendations on this project in our role as a trustee and responsible agency under the California Environmental Quality Act (CEQA, California Public Resource Code §21000 et seq.).

Biological Significance

San Francisco Bay (Bay) is one of the largest and most important estuaries on the West Coast. The Bay is a dynamic urban estuarine environment that provides important habitat for fish, aquatic organisms, and wildlife. The Bay also provides important habitat **01** [BIM-1a]

for marine mammals, fish, shellfish, and aquatic invertebrates and supports a critical food web. Shallow water areas provide habitat for larval, juvenile, and adult fishes and shellfish, while specific intertidal and subtidal areas of the entire Bay serve as important spawning areas for Pacific herring. Salmon and steelhead feed and rest in the bay during their migration from rivers to the open ocean. Additionally, important commercial and sport fishes utilize deepwater habitats in the Bay. **01** [BIM-1a] cont.

Comments on DEIR

The AC34 Project proposes implementing mitigation measures that cover most of the Department's concerns regarding marine and estuarine biological resources. However, the Department remains concerned about the following potential adverse effects of the AC34 Project on aquatic species in the Bay.

- The pile driving needed to build infrastructure for the 34th America's Cup races can create sound levels that are deleterious to fish and marine mammals as described in the DEIR. Mitigation measure M-BI-11a proposes the development of a sound attenuation monitoring plan and a contingency plan to be approved by National Marine Fisheries Service (NMFS) prior to the start of construction. The Department also needs to approve these plans. If noise levels should exceed the established thresholds for fish, then there is the potential for take of listed species such as longfin smelt, *Spririnchus thaleichthys*. The Applicant must consult with the Department to obtain incidental take authorization pursuant to Fish and Game Code (FGC) §2081(b) prior to construction of the AC34 Project if take of state-listed species is expected to occur. **02** [BIM-5b]
- The Department remains concerned about impacts to commercial and recreational fishing activities due to area closures. Adverse impacts to commercial and/or recreational fishing activities within the project area could result from the loss of accessible fishing areas during construction operations and proposed events. The Final Environmental Impact Report (FEIR) should address how the AC34 Project will avoid impacts to commercial and recreational fishing activities. **03** [BIM-6]
- The operation of floating docks for refueling and support vessels can potentially result in spills leading to aquatic pollution. Prevention of oil spills is critical since oil is extremely difficult to contain and capture once released into the water. The FEIR should discuss how the AC34 Project would prevent oil spills and include a spill contingency plan. **04** [HZ-3]
- The Long Term Management Strategy (LTMS) work windows, http://www.spn.usace.army.mil/ltms, provide protection to marine resources during their sensitive periods in the San Francisco Bay. If any in-water work should occur at times other than the approved (LTMS) work windows, the AC34 Project should consult with the Department to discuss actions to avoid impacts on marine resources. **05** [BIM-2b]

A-CDFG

As always, Department personnel are available to discuss our comments, concerns, and recommendations in greater detail. To arrange for a discussion please contact George Isaac, Environmental Scientist, California Department of Fish and Game, 20 Lower Ragsdale Drive, Monterey, CA 94306, telephone (831) 649-2813.

Sincerely,

Marija Vojkovich
Regional Manager
Marine Region

cc: Ms. Becky Ota
Department of Fish and Game
350 Harbor Boulevard
Belmont, CA 94002

Ms. Vicki Frey
Department of Fish and Game
619 2nd Street
Eureka, CA 95501

Mr. George Isaac
Department of Fish and Game
20 Lower Ragsdale Drive, Suite 100
Monterey, CA 93940

Ms. Joy Navarrete
San Francisco Planning Department
1650 Mission St, Suite 400
San Francisco, CA 94103-2479

Ming Yeung
San Francisco Bay Conservation
& Development Commission
50 California Street, Suite 2600
San Francisco, CA 94111

State Clearinghouse
P.O. Box 3044
Sacramento, CA 95812-8044

A-CDPR

State of California • Natural Resources Agency
Edmund G. Brown Jr., Governor
DEPARTMENT OF PARKS AND RECREATION
Ruth Coleman, Director
Marin District
845 Casa Grande Road
Petaluma, CA 94954
(707) 769-5665

RECEIVED
AUG 2 9 2011
CITY & COUNTY OF S.F.
PLANNING DEPARTMENT
M E A

August 22, 2011

Bill Wycko
Environmental Review Officer
San Francisco Planning Department
1650 Mission Street, Suite 400
San Francisco, CA 94103

Dear Mr. Wycko,

I am writing in response to the draft Environmental Impact Report (EIR) for the 34th America's Cup Races.

First, I would like to reiterate that California State Parks is excited about the opportunity to participate as a venue, visitor destination site, and community programs partner during AC34.

CA State Parks does have some concern over the methodology of your visitation numbers.

(3-33, last paragraph)
AC34 2012: Visitation Estimates
As described above, the scale and duration of AC34 2012 event would be less than for AC34 2013. The visitation analysis conducted for AC34 2012 analyzed overall attendance (relative to number of race days) and peaking patterns for a comparable series of races that were held in the year prior to the AC32 event in Valencia, Spain. The visitation analysis then estimated attendance for different categories of expected spectator interest for the AC34 2012 event, and then estimated overall attendance for AC34 2012.

(3-37, first paragraph)
...estimated the portions of attendance attributable to race days and non-race days based upon ***patterns in previous America's Cup events. Ranges of peak day attendance were estimated based in part on visitor attendance data that were available for previous America's Cup events held in Valencia, Spain and Auckland, New Zealand; in addition, Bay Area residents and tourist market patterns, consideration of San Francisco waterfront special events such as Fleet Week and the 4th of July, along with key characteristics of AC34 events were used in the analysis. Using the mid-range peak day visitation number as a baseline, a series of visitor day profiles were developed.***

With the Valencia, Spain and the Auckland, New Zealand events in the open sea, how can the San Francisco Bay's "enclosed" venue with its many land based viewing areas be considered comparable?

At Angel Island SP, California State Parks has estimated its peak visitation per day during Fleet Week and Fourth of July at over 2600. Was this figure considered in estimating the number of visitors per day during peak race weekend days? 01 [PD-5]

(5.1-7, second paragraph)
Outside of mainland San Francisco, the north and west sides of Treasure Island would offer broad viewing areas of the race area available to the public, although depending on the actual location of the race course, the distance could be greater than one mile. While a small portion of Yerba Buena Island is within the race course viewshed, most of that portion of the island has constrained public accessibility. Within southern Marin County, secondary viewing areas primarily include shoreline areas and south- and east-facing slopes, such as roadside pulloffs in the GGNRA's Marin Headlands and at Fort Baker, as well as along the Sausalito waterfront and south side of Angel Island. Both the Marin Headlands and Angel Island are within the race course viewshed and contain large public open spaces and have visitor facilities. However, Angel Island is accessible only by ferry or private boat, and the Marin Headlands has limited accessibility and hilly, vegetated terrain that could obscure portions of the race area. As noted above, none of the secondary viewing areas would have the programmed amenities, event information, or hospitality attractions sponsored by the Event Authority similar to what has been proposed at the primary venues.

Why aren't any of the secondary viewing areas considered for programmed amenities, event information, or hospitality attractions sponsored by the Event Authority? While the amenities or attractions will likely not be at the level of the primary areas, event information and some amenities should be considered for secondary areas with significant estimated number of visitors. 02 [PD-1, PD-6]

(5.1-8, Table 5.1-1)
The table shows the estimated daily visitors for Angel Island weekend days is up to 1000 in both 2012 and 2013.

At Angel Island SP, California State Parks has estimated its peak visitation per day during Fleet Week and Fourth of July at over 2600. Was this figure considered in estimating the number of visitors per day during peak race weekend days? Is the assumption that AC34 will be a less popular viewing event? 03 [PD-5]

(5.3-19, first paragraph)
D. Angel Island (California State Park), Treasure Island and Yerba Buena Island
Angel Island State Park is only accessible by boats and ferries leave regularly from Tiburon. Angel Island is near the center of San Francisco Bay and would provide excellent opportunities to observe the AC34 races. It has visitor services, a restaurant, and bathrooms. A paved road circles the island which provides access for pedestrians and cyclists. Views on the south side are approximately an one-mile walk from the ferry and are elevated above the water. These locations provide the broadest views of San Francisco Bay and the proposed race course. ***Figure 5.3-7, Photo D1****, shows Angel Island from above Fort Baker and the Golden Gate Bridge overlook, and* ***Figure 5.3-7, Photo D2****, shows the view of the Bay and City from the south side of the island.* ***Treasure Island and Yerba Buena Island*** *are directly east and across the Bay from San Francisco.*

Citing the "excellent opportunities to observe" and the "broadest views of SF Bay and the proposed race course" and our attendance figures during Fleet Week, the number of visitors per day during peak race weekend days should be far higher than the 1000 visitor peak estimate in the EIR. 04 [PD-5]

Given these revised peak visitor numbers of nearly 3000 and the quality of the race viewing opportunities, shouldn't event information and some amenities be considered?

(1-42,table 1-3)
No mitigation necessary, but the following Improvement Measure is identified:
Improvement Measure I-TR-28: Advance Ferry Ticket Sales
In order to ensure that demand for ferry service to secondary spectator viewing areas on Angel Island do not exceed the capacity of the ferry service, advance ticket sales could be required. As part of the People Plan, the City shall work with California State Parks, Blue & Gold ferry service, and the Angel Island Tiburon Ferry service to develop a strategy for ferry access to Angel Island, including requiring advance ticket sales.

This recommendation seems to be inconsistent with the above approach that visitation would be limited to up to 1000 people per day? Angel Island ferries can hold many more than that, and peak visitation ranges upwards of 2600 per day. This recommendation is sound and advisable, but the estimated numbers of spectators should be adjusted in the other sections. 05 [TR-2b]

(5.6-27, third paragraph)
The Angel Island Tiburon Ferry provides year-round service between downtown Tiburon and Angel Island, with both scheduled ferry transportation and special charter operations for the 10-minute ferry ride. During the low season, from November to March there is generally only
weekend service, with four ferries scheduled per weekend day. From April through October, there is regular ferry service seven days a week with more frequent service on weekends.

There does not seem to be reference in this area or other about the Ferry service from San Francisco to Angel Island. It is noted in figure 5.6-6 but not mentioned in this paragraph or elsewhere in this section. Angel Island is serviced year-round by Blue and Gold Fleet from San Francisco, both from the Ferry Building and Pier 41. Angel Island is also serviced during peak season (April-October) by Alameda with WETA (currently also Blue and Gold Fleet). 06 [TR-1a]

Thank you for the opportunity to comment.

If you have any questions, please do not hesitate to contact Angel Island Superintendent Amy Brees (; 415.435.3149) as she is the state parks contact person for this event.

A-CDPR

Again, we look forward to the exciting several months ahead!

Sincerely,

Amy Brees
Angel Island Superintendent

Danita Rodriguez
District Superintendent

A-CSLC1

STATE OF CALIFORNIA — EDMUND G. BROWN JR., *Governor*

CALIFORNIA STATE LANDS COMMISSION
100 Howe Avenue, Suite 100-South
Sacramento, CA 95825-8202

CURTIS L. FOSSUM, *Executive Officer*
(916) 574-1800 FAX (916) 574-1810
California Relay Service From TDD Phone 1-800-735-2929
from Voice Phone 1-800-735-2922

Contact Phone: **(916) 574-1890**
Contact FAX: **(916) 574-1885**

August 25, 2011

File Ref: SCH #2011022040

Joy Navarrete
San Francisco Planning Department
City and County of San Francisco
1650 Mission Street, Suite 400
San Francisco, CA 94103

Subject: Draft Environmental Impact Report (EIR) for the 34th America's Cup Races and James R. Herman Cruise Terminal and Northeast Wharf Plaza, San Francisco City and County

Dear Ms. Navarrete:

Staff of the California State Lands Commission (CSLC) has reviewed the subject draft EIR for the 34th America's Cup Races (AC34), the James R. Herman Cruise Terminal and Northeast Wharf Plaza (Cruise Terminal) and other conceptual Long-Term Development (Long-Term Development), cumulatively referred to as the Project, which is being prepared by the City and County of San Francisco (City) as the lead agency under the California Environmental Quality Act (CEQA) (Pub. Resources Code § 21000 et seq.). CSLC staff has prepared these comments as a trustee and responsible agency because of its trust responsibility for projects that could directly or indirectly affect sovereign lands, their accompanying Public Trust resources or uses, and the public easement in navigable waters.

Project Location and Description

The Project would be located primarily along the northeast waterfront of San Francisco (The Embarcadero), with many Project-related activities occurring in or adjacent to San Francisco Bay. The Project includes temporary and permanent improvements and services to several facilities and locations to support the Project: (1) AC34, a series of international sailing and spectator events to be hosted by the City; (2) the Cruise Terminal, to be constructed after AC34 is concluded; and 3) other Long-Term Development. 01 [GEN-3]

AC34

A series of AC34 yacht races would be held in San Francisco Bay in 2012 and 2013. Public visitation is estimated to be 1,454,000 in 2012 and 5,490,000 in 2013. Various venues are proposed for spectator-related activities, most of which are under the

jurisdiction of the City and the Port of San Francisco (Port), while some are under the jurisdiction of other city, state or federal agencies. Several of the venues proposed for events are piers, water areas, and facilities managed by the Port. These include:

- Piers (19, 19½, 23, 27-29½, 26, 28, 30-32, and 80);
- Water basins/water areas:
  - Piers 19-23, 23-27, and 29-31 (north of the Ferry Building);
  - Piers 14-22½, 26-28, 28-30, and 32-36 (south of the Ferry Building);
- Seawall Lot 330.

The Project will require construction activities that include dredging, pile driving, and installation of anchoring systems, floating docks, and floating wave attenuators. Dredging would include removal of approximately 165,000 cubic yards (CY) of sediment over the life of the Project (130,000 CY within Piers 32-36 and 6,000 CY within Piers 28-30 in 2012, and 29,000 CY within Piers 14-22 ½ in 2013).

01 [GEN-3] cont.

Cruise Terminal

The Port proposes development of Pier 27 for the Cruise Terminal. However, development is proposed to be phased to allow America's Cup Village uses (temporarily) at Piers 27-29, including an initial phase of the Cruise Terminal building, for the 2013 America's Cup races. The proposed two-story Cruise Terminal building would be approximately 91,200 square feet (ft^2) in size and would occupy a footprint of approximately 46,100 ft^2 along Pier 27. The Northeast Wharf Plaza would provide an approximately 2½-acre open space at the south end of Pier 27, fronting along The Embarcadero promenade. Development of the Cruise Terminal would also involve demolition of the existing Pier 27 shed, a portion of the Pier 29 shed, and the Pier 27 Annex building.

02 [GEN-3]

Conceptual Long-Term Development

Other conceptual long-term development (1,358,800 ft^2) proposed as part of the Project and incorporated in the cumulative environmental analysis includes:

- Piers 26,28,19,19½, 23 and 29 (mixed-use retail, entertainment, assembly, and office uses totaling approximately 498,800 ft^2);
- Piers 30-32 (two cruise ship berths and mixed-use retail, office and commercial uses totaling approximately 610,000 ft^2);
- Seawall Lot 330 (high-density residential development totaling approximately 250,000 ft^2); and
- Open Water Basins at Piers 32-36 and 14-22½ (two recreational marinas).

03 [GEN-3]

CSLC Jurisdiction and the Public Trust

The CSLC has jurisdiction and management authority over all ungranted tidelands, submerged lands, and the beds of navigable lakes and waterways. The CSLC also has

04 [GEN-1]

certain residual and review authority for tidelands and submerged lands legislatively granted in trust to local jurisdictions (Pub. Resources Code §§6301, §6306). All tidelands and submerged lands, granted or ungranted, as well as navigable lakes and waterways, are subject to the protections of the Common Law Public Trust.

As general background, the State of California acquired sovereign ownership of all tidelands and submerged lands and beds of navigable lakes and waterways upon its admission to the United States in 1850. The State holds these lands for the benefit of all people of the State for statewide Public Trust purposes, which include but are not limited to waterborne commerce, navigation, fisheries, water-related recreation, habitat preservation, and open space. On tidal waterways, the State's sovereign fee ownership extends landward to the mean high tide line, except for areas of fill or artificial accretion or where the boundary has been fixed by agreement or a court. On navigable non-tidal waterways, including lakes, the State holds fee ownership of the bed of the waterway landward to the ordinary low water mark and a Public Trust easement landward to the ordinary high water mark, except where the boundary has been fixed by agreement or a court. Such boundaries may not be readily apparent from present day site inspections.

After review of the information contained in the draft EIR, CSLC staff has determined that the Project will occupy legislatively granted sovereign lands that have been transferred, in trust, to the City, pursuant to Chapter 1333, Statutes of 1968 and as amended (Burton Act), with minerals reserved to the State. The City, acting by and through the Port, manages the day-to day administration of these lands and must make certain that uses proposed on lands subject to the Public Trust are consistent with the provisions of the granting statutes and the common law Public Trust Doctrine. Authorized uses include waterborne commerce, navigation, fisheries, open space, water-oriented recreation, or other recognized Public Trust purposes. Furthermore, proposals for use of Public Trust resources must serve a statewide or at least regional benefit and caution must be taken so as to not confuse purely local or municipal benefits with Public Trust benefits. In addition, the CSLC has the statutory responsibility to oversee the management of sovereign Public Trust lands and assets by legislative grantees who manage these lands, in trust, on behalf of the State. (Pub. Resources Code § 6301 et seq.; *State of California ex rel. State Lands Commission v. County of Orange* (1982) 134 Cal App. 3d 20, 23). The CSLC and its staff exercise this responsibility and authority through various mechanisms, including CEQA document comment letters.

04 [GEN-1] cont.

This conclusion is without prejudice to any future assertion of State ownership or public rights, should circumstances change, or should additional information become available. This letter is not intended, nor should it be construed as, a waiver or limitation of any right, title, or interest of the State of California in any lands under its jurisdiction.

Additionally, in Public Trust grants where minerals are reserved to the State, a lease must be obtained from the CSLC before performing any dredging activities. The dredging component of the proposed Project will require a lease. An application for a dredging lease can be found on the CSLC website via the following link www.slc.ca.gov.

Environmental Review

The CSLC staff has reviewed the draft EIR, and requests that the following information be included in the final EIR:

Public Trust Lands

1. Public Trust Consistency: The Project proposes that Pier 19 would serve as AC34 ancillary office and storage space and Pier 23 would serve as the media operations center, broadcast center, television production studio, and/or commercial/retail center. Generally, uses such as office space, storage, media operation, broadcasting and commercial/retail centers are not uses consistent with the Public Trust as such uses do not serve the regional or statewide general public and are not water-dependent or water-related. Please describe the need for and duration of these facilities. **05** [PD-6]

2. Seawall Lot 330: The draft EIR includes assumptions about long-term development rights relative to lands subject to the Public Trust, including Seawall Lot 330 (development of 250 residential units totaling 250,000 ft^2 on this approximately 2 acre parcel) and several piers under the terms of the 34th America's Cup Host Agreement and Venue Agreement. Some of these assumptions include lifting the Public Trust from Seawall Lot 330, the City entering into 75-year lease agreement, and/or transferring fee title under a separate purchase and sale agreement. Although the CSLC is not a party the Host Agreement, action by the CSLC would be required prior to the City entering into any agreements affecting the Public Trust on these lands. **06** [PD-3]

Sea Level Rise

Figure 5.16-9 illustrates 100-year still water levels (SWL) and the inundation area in the Project vicinity. Please describe any flood prevention measures incorporated into Project designs to protect future long-term development (e.g., Pier 27). **07** [IO-5]

Aesthetics

The Project proposes the construction of a super yacht harbor at Piers 14 and 22 ½. The potential for aesthetic and public access related impacts to result from the mooring of these structures, which are not currently in the baseline environment, are not thoroughly described in the draft EIR. The final EIR should include a discussion of how the view of the Bay and public access would be degraded or changed by the proposed use by super yachts, and should describe actions that will be taken by the Port to ensure that the public's view of and access to the shoreline and Bay are not obstructed by the moored super yachts. **08** [AE-1]

Cultural Resources

1. p. 5.5-1, 4th par.: Please add shipwrecks to the list of archeological resources.
2. Mitigation Measure M-CP-2: Inadvertent Discovery of Archeological Resources or Shipwrecks, p. 5.5-102, 5th line: The referenced section of the State CEQA Guidelines should probably be 15064.5(a)(c), not 15065.4(a)(c).
3. p. 5.5-102: To facilitate coordination with CSLC staff in case of an inadvertent discovery of cultural resources on the State's submerged lands, please provide CSLC staff with a copy of the proposed archeological resource "ALERT" sheet and a copy of the Environmental Planning Division's guidelines for archeological monitoring and/or evaluation (mentioned on p. 5.5-103, 3rd full paragraph).

09 [CP-1, CP-9e]

Recreation and Public Access

1. The Project proposes limiting the use of Pier 2 and 3 for recreational fishing purposes and closing the municipal pier at Aquatic Park during racing events. Describe how long these piers will be closed to the public and what, if any, other Public Trust uses will be limited at other sites within the Project area over the life of the Project. **10** [PD-6]
2. The draft EIR states that certain spectator venue view areas will be limited to private guests. Will these areas be sold as ticketed pay-per-view areas? Please provide a map identifying these private view areas. **11** [PD-6]
3. The Cruise Terminal component of the Project would allow for shared uses of the terminal between ship calls for public and private events. The final EIR should provide a more robust discussion of what types of events are proposed. **12** [PD-9]

Mitigation Monitoring and Reporting Program (MMRP)

1. Mitigation measures identified in the draft EIR rely on the preparation and implementation of many future plans, for example:
   - People Plan;
   - Traffic Monitoring and Management Program;
   - Transit operating plan;
   - Transportation management plan;
   - Noise Control Plan;
   - Parks Event Operations Plan;
   - Fencing and Signage Plan;
   - Water and Air Traffic Plan;
   - National Marine Fisheries Service (NMFS)-approved sound attenuation monitoring plan;
   - Invasive Species Control Plan;
   - Spill Prevention Control and Countermeasure (SPCC) Plan; and
   - Materials Management Disposal Plan (MMDP).

13 [IO-4c]

To avoid the improper deferral of mitigation, please ensure that mitigation measures included in the final EIR to avoid or reduce the identified impacts (especially those incorporating future plans) are presented as specific, feasible, enforceable obligations, or are presented as formulas containing "performance standards which would mitigate the significant effect of the project and which may be accomplished in more than one specified way" (State CEQA Guidelines § 15126.4, subd. (b)). 13 [IO-4c] cont.

2. Prior to final action on the EIR, the City should provide a MMRP pursuant to State CEQA Guidelines section 15091, subd. (d) and 15097, subd. (a). The MMRP should include methods for coordination, timing for implementation of mitigation measures and list all parties and/or agencies, in addition to the City, responsible for ensuring compliance and enforcement through permit conditions, agreements or other measures during each phase of the Project. 14 [IO-4a]

Subsequent Environmental Review

Page 1-5 of the Executive Summary states that AC34 (via the Host Agreement) would provide certain conditional long-term development rights at selected Port facilities, Brannan Street Wharf and Rincon Point Open Water Basins. It further states that there are currently no specific development proposals for any of these sites, and any future development plans and uses allowed under the Host Agreement would be required to undergo separate environmental review for CEQA compliance. This is also listed as an issue in Areas of Controversy and Issues to be Resolved in the Executive Summary (page 1-17).

However, page 3-91 in the Project Description states that long-term development assumptions summarized in Table 3-13 are conceptually analyzed in the draft EIR and incorporated into the cumulative analysis. It appears that the intent of this analysis is to provide a level of environmental review that may be relied upon for subsequent site-specific development, similar to a program EIR. Accordingly, the final EIR should make an effort to distinguish between those long-term development activities (and the associated impacts and mitigation measures) being analyzed in sufficient detail to be covered under this EIR without additional project-specific environmental review, and those long-term development activities that will trigger the need for additional environmental analysis (see State CEQA Guidelines § 15168, subd. (c)). 15 [IO-5]

Thank you for the opportunity to comment on this comprehensive environmental document. As a responsible agency, the CSLC will need to rely on the final EIR and MMRP for the issuance of a lease for dredging activities, and therefore, we request that you consider our comments prior to adoption of the final EIR.

Please send copies of future Project-related CEQA documents or refer questions concerning environmental review to Ben Lichty, Associate Governmental Program Analyst, at (916) 574-1891 or by e-mail at ben.lichty@slc.ca.gov. Please contact Grace Kato, Public Land Manager at 916-574-1227 (e-mail: grace.kato@slc.ca.gov) if you

have questions concerning CSLC jurisdiction or leases, or Senior Staff Counsel Pam Griggs at (916) 574-1854 (e-mail: pamela.griggs@slc.ca.gov) if you have questions concerning archaeological or historic resources under CSLC jurisdiction.

Sincerely,

Cy R. Oggins, Chief
Division of Environmental Planning
and Management

cc: Office of Planning and Research
G. Kato, CSLC
M. Clark, CSLC
J. Rader, CSLC
J. Lucchesi, CSLC
J. DeLeon, CSLC
B. Lichty, CSLC
P. Griggs, CSLC

STATE OF CALIFORNIA EDMUND G. BROWN JR., *Governor*

CALIFORNIA STATE LANDS COMMISSION
100 Howe Avenue, Suite 100-South
Sacramento, CA 95825-8202

CURTIS L. FOSSUM, *Executive Officer*
(916) 574-1800 FAX (916) 574-1810
California Relay Service from TDD Phone 1-800-735-2929
from Voice Phone 1-800-735-2922

Contact Phone: **(916) 574-0236**
Contact FAX: **(916) 574-1950**

August 25, 2011

File Ref: W9777.234
W9777.291

Mr. Bill Wycko
Environmental Review Officer
San Francisco Planning Department
1650 Mission St., Suite 400
San Francisco, CA 94103

RE: Comments on the Draft Environmental Impact Report for the 34th America's Cup Races and James R. Herman Cruise Terminal and Northeast Wharf Plaza, SCH No. 2011022040

Dear Mr. Wycko:

The Marine Invasive Species Program Staff of the California State Lands Commission (Commission) appreciates the opportunity to provide comments on the draft environmental impact report (DEIR) for the 34th America's Cup Races and James R. Herman Cruise Terminal and Northeast Wharf Plaza (Project).

Since 1999, the Commission's Marine Invasive Species Program (MISP) has been and remains a national and world leader in the development of effective science-based management strategies for preventing species introductions through vessel vectors, including both ballast water and biofouling. The MISP has statutory and regulatory jurisdiction over vessels 300 gross registered tons and above which are capable of carrying ballast water. Many of the larger yachts expected to arrive to the San Francisco Bay for activities related to, and observation of, America's Cup 34 will be subject to MISP statutory and regulatory requirements. Additionally, the specific Legislative purpose of the MISP is to move the state expeditiously toward elimination of the discharge of nonindigenous species (NIS) into the waters of the state. With this purpose in mind, MISP Staff offer the following comments on the DEIR.

COM-52

Overall Comments:

1. Text within section *5.14.4.6 Invasive and Non-Native Species* includes several references suggesting that ballast water is specifically the single largest source of nonindigenous species introductions, while vessel biofouling is only mentioned along with the "other methods" such as live trade, accidental release, and live bait. However, recent research suggests that vessel biofouling has been at least as important as and likely more important than ballast water as a vector for the introduction of NIS into coastal areas, not only in California (Ruiz et al. 2011) but also worldwide (Hewitt and Campbell 2010). These statements give the incorrect impression that the risk of introduction and spread of NIS as a result of activity surrounding the America's Cup will be minimal, as the majority of visiting and participating vessels do not carry ballast water. In fact, each of the estimated 2,280 visiting vessels, regardless of size, has underwater surfaces that are susceptible to biofouling and will present some level of risk. This risk must be discussed and must be mitigated. MISP staff strongly encourages discussion of these risks and mitigation measures within the DEIR. **01** [BIM-1f]

2. Many of the large yachts that will be visiting the San Francisco Bay during the America's Cup will be under the jurisdiction of MISP laws and regulations, and therefore must be informed of, and compliant with, these requirements. The current descriptions within the DEIR (specifically pages 5.14-78 and 5.16-46) are outdated and refer to the 1999 Ballast Water Management for the Control of Nonindigenous Species Act, which was revised and renamed in 2003 as the Marine Invasive Species Act (the Act). The Act has been revised several times since 2003 and there are a number of new requirements that are not part of the description listed in the DEIR. This section should be updated and expanded with a description of current requirements of the Marine Invasive Species Act (California Public Resources Code 71200 et seq.) as well as with the related regulations located within Title 2, Division 3, Chapter 1 of the California Code of Regulations (2CCR§2270 – 2298). The current requirements are described in the MISP 2011 Biennial Report (Takata et al. 2011); http://www.slc.ca.gov/Spec_Pub/MFD/Ballast_Water/Documents/2011_BiennialRpt_Final.pdf. All current and proposed MISP laws and regulations can be found at: http://www.slc.ca.gov/Spec_Pub/MFD/Ballast_Water/Laws_Regulations.html. MISP staff strongly encourages revising the description of the requirements of the Marine Invasive Species Act and related regulations. **02** [BIM-2a, HY-2]

3. The construction of in-water infrastructure may present an elevated risk of NIS introduction and transfer, above and beyond the risk associated with the removal of in-water structures. MISP staff have two specific areas of concern: **03** [BIM-7]

   a. In-water construction vessels (e.g. cranes, barges) which may be brought into the San Francisco Bay from areas outside of San Francisco Bay may

represent an elevated risk of NIS introduction. These types of vessels typically either remain stationary for extended periods of time or move very slowly within a limited geographical range. Both of these activities are associated with elevated levels of biofouling accumulation on vessels (Coutts 2002, Davidson et al. 2008, Floerl and Coutts 2010). These stochastically moving vessels represent an elevated risk of NIS introduction if they are not properly managed before transiting to a new location. If these types of vessels are to be utilized for the construction of in-water infrastructure related to the Project, they must be properly de-fouled prior to arrival to the San Francisco Bay, preferably in the geographic location where the extended stationary period occurred (i.e. follow the 'clean before you go' strategy). Additionally, these vessels should be cleaned prior to leaving the San Francisco Bay to prevent the spread of San Francisco Bay organisms to the vessel's next port of call. **03** [BIM-7] cont.

b. In-water infrastructure that may be towed into the San Francisco Bay from areas outside of the San Francisco Bay may represent an elevated risk of NIS introduction. All wave attenuators, floating docks, and other in-water infrastructure that are towed over water into the San Francisco Bay must be properly de-fouled prior to arrival to the San Francisco Bay, preferably in the geographic location where they were previously deployed (i.e. follow the 'clean before you go' strategy). Additionally, these structures should be cleaned prior to leaving the San Francisco Bay to prevent the spread of San Francisco Bay organisms to the structure's next operational location.

Specific Comments:

Pg 5.14-72, Section 5.14.4.6, Paragraph 2, Lines 3-5. This statement is somewhat misleading. The invasion rates for San Francisco Bay described here were reported in a study published in 1995 (Cohen and Carlton 1995). This study demonstrated that from 1851 to 1960, the number of newly detected invasions averaged one per every 55 weeks. From 1961 until 1995, the number of newly detected invasions averaged one per every 14 weeks. Thus, the invasion rate for the area has dramatically increased during the 40+ year period prior to the study (1995), likely due to several factors outlined in the study. This is not a linear pattern as is suggested in the DEIR (i.e. we don't estimate that a new species will be found every 14 weeks) and should not be treated as such. Staff urges caution in the way that these data are presented. **04** [BIM-1f]

Pg 5.14-72, Section 5.14.4.6, Paragraph 3, Line 1. See Overall Comment #1 above, recent research shows that biofouling is at least as important as ballast water for introducing NIS into coastal areas. **05** [BIM-1f]

Pg 5.14-73, Section 5.14.5.1. This section is titled *Federal Regulations*, but then proceeds to detail legislative actions (i.e. not regulations, per se). Suggest renaming the section to *Federal Laws and Regulations*. **06** [BIM-2a]

COM-53

Pg 5.14-73, Section 5.14.5.1. This section details applicable federal regulations but makes no mention of the US Environmental Protection Agency Vessel General Permit (VGP), which regulates vessel discharges under the Clean Water Act. The VGP may be applicable to certain vessels involved in the Project, thus a description of the requirements is warranted. Information on the VGP and the California-specific section 401 certification provisions can be found at: http://cfpub.epa.gov/npdes/home.cfm?program_id=350. **07** [BIM-2a]

Pg 5.14-78, Section 5.14.5.2. This section is titled *State Regulations*, but then proceeds to detail legislative actions (i.e. not regulations, per se). Suggest renaming the section to *State Laws and Regulations*. **08** [BIM-2a]

Pg 5.14-82, Section 5.14.6.3. *Impact Overview*. Suggest including the impact of nonindigenous species introductions that may result from in-water construction activities, particularly from high-risk stochastically-moving construction vessels. See Overall Comment # 3 above. **09** [BIM-7]

Pg 5.14-102, Bullet 5. Suggest including information on preventative steps to prevent the introduction and spread of nonindigenous species, particularly measures to clean wetted or submerged surfaces of vessels prior to arriving to San Francisco Bay and again prior to leaving the San Francisco Bay (i.e. follow the 'clean before you go' strategy). **10** [BIM-8a]

Pg 5.14-110, *Non-Native and Invasive Species*, Paragraph 2. State ballast water regulations now require that ballast water discharged from certain vessels (depending on date of vessel construction and ballast capacity) must meet specific performance standards for the number of viable organisms allowed per volume. These performance standards and the implementation schedule can be found in 2CCR§2291 – 2297.1, also at: http://www.slc.ca.gov/Spec_Pub/MFD/Ballast_Water/Documents/AttachA_Art4_7_TrtForms_9Nov2010.pdf. **11** [BIM-7]

Pg 5.14-110, *Non-Native and Invasive Species*, Paragraph 3. Vessels under the jurisdiction of the Marine Invasive Species Act and related regulations must also satisfy requirements to manage vessel biofouling, which can be found in PRC 71204 and 2CCR§2298. Additional proposed regulations for biofouling management will likely be in place starting January 1, 2013. These proposed regulations will be posted to the MISP website in early September 2011 and the final regulations will be posted in early 2012. The MISP website can be found at: http://www.slc.ca.gov/Spec_Pub/MFD/Ballast_Water/Ballast_Water_Default.html. **12** [BIM-7]

Pg 5.14-116, *Invasive Marine Species Control at Port Facilities*, Bullet 4. Suggest description of what is meant by "qualified marine biologist." What criteria will be required for this designation to be granted? **13** [BIM-7]

Pg 5.16-67, *Increased Boating Discharges, Spills, and Littering in the Bay*, Paragraph 3, Lines 7-10. This information must be updated to reflect current policies and requirements. The "Ballast Water Management Act" is incorrectly named in the document, and should be identified as the "Ballast Water Management for Control of Nonindigenous Species Act" as officially named in legislation. In addition, that legislation was revised and renamed as the Marine Invasive Species Act in 2003, with several amendments during the eight years since. Certain vessels will need to satisfy ballast water discharge performance standards if they intend to discharge ballast in California waters. These requirements can be found at: http://www.slc.ca.gov/Spec_Pub/MFD/Ballast_Water/Documents/AttachA_Art4_7_TrtForms_9Nov2010.pdf. Vessels must also satisfy vessel biofouling requirements (which can be found in PRC 71204 and 2CCR§2298), including proposed biofouling management regulations which will likely enter into effect January 1, 2013 (these will be posted to the MISP website as proposed regulations in September 2011 and as final regulations in early 2012; http://www.slc.ca.gov/Spec_Pub/MFD/Ballast_Water/Ballast_Water_Default.html.) 14 [HY-2]

Closing

Thank you for consideration of these comments. If you have any questions, please do not hesitate to contact me at Lynn.takata@slc.ca.gov.

Sincerely,

Lynn Takata
Marine Invasive Species Program Manager
Marine Facilities Division, California State Lands Commission

CC: Kevin Mercier, Acting Chief, Marine Facilities Division

Literature Cited:

Cohen, A.N. and J.T. Carlton. 1995. Accelerated invasion rate in a highly invaded estuary. Science 279: 555-558

Coutts, A.D.M. 2002. A biosecurity investigation of a barge in the Marlborough Sounds. Cawthron Report No. 744 prepared for Heli Harvest Limited. 68 pgs

A-CSLC2

Davidson, I.C., L.D. McCann, P.W. Fofonoff, M.D. Sytsma, and G.M. Ruiz. 2008. The potential for hull-mediated species transfers by obsolete ships on their final voyages. Diversity and Distributions 14: 518-529.

Floerl, O. and A. Coutts. 2009. Potential ramifications of the global economic crisis on human-mediated dispersal of marine non-indigenous species. Marine Pollution Bulletin 58(11): 1595-1598.

Hewitt, C. and M. Campbell. 2010. The relative contribution of vectors to the introduction and translocation of invasive marine species. Final Report prepared for the Australian Department of Agriculture, Fisheries and Forestry. 56 pgs.

Ruiz, G.M., P.W. Fofonoff, B. Steves, S.F. Foss, and S.N. Shiba. 2011. Marine invasion history and vector analysis of California: a hotspot for western North America. Diversity and Distributions 17: 362-373.

STATE OF CALIFORNIA - CALIFORNIA NATURAL RESOURCES AGENCY EDMUND G. BROWN, JR., *Governor*

DEPARTMENT OF BOATING AND WATERWAYS
2000 EVERGREEN STREET, SUITE 100
SACRAMENTO, CA 95815-3888
(888) 326-2822
www.dbw.ca.gov

Sent via electronic mail: No hard copy to follow

San Francisco Planning Department
1650 Mission Street, Suite 500
San Francisco, CA 94103-2414
Attn.: Mr. Bill Wycko, Environmental Review Officer
Email: bill.wycko@sfgov.org

August 25, 2011

Subject: Draft Environmental Impact Report for the 34th America's Cup and James R. Herman Cruise Terminal and Northeast Wharf Plaza Planning Department Case No. 2010.0493E State Clearinghouse No. 2011022040

Dear Mr. Wycko:

COM-55

On behalf of the California Coastal Commission and the California Department of Boating and Waterways' Boating Clean and Green Program, I appreciate the opportunity to provide these comments on the draft Environmental Impact Report (DEIR). The Department of Boating and Waterways is the state's expert in recreational boating-related matters, including public access, safety and education, marine law enforcement, and consumer and environmental protection.

Executive Summary – Table 1-3 Summary of Impacts and Mitigation Measures

Section 5.25: Land Use
Construction and operation of the America's Cup facilities, the James R. Herman Cruise Terminal and Northeast Wharf Plaza at Piers 27-29 may impact nearby, concurrent construction projects funded and/or administered by other public agencies, including the Department of Boating and Waterways. These potential impacts should be identified and mitigated. **01** [LU-8]

Section 5.6: Transportation and Circulation
Construction and operation of the America's Cup facilities, the James R. Herman Cruise Terminal and Northeast Wharf Plaza at Piers 27-29 may impact emergency vessel and vehicle access to affected areas. These potential impacts should be identified and mitigated. **02** [TR-11]

Section 5.11: Recreation
Visiting mariners should be provided with information to assure compliance with boating navigation and safety rules in event areas. **03** [RE-5]

Section 5.14: Biological Resources

M-BI-12 Mitigation Measures – Visiting Mariners Information **04** [BIM-8a]

- Second Paragraph

To Read:
The visiting mariners information in the Water Air Traffic Plan shall include details on how this information will be disseminated to visiting boaters taking into account target audience and their likely means of obtaining information. These methods shall include but not limited to brochure or pamphlets; the AC34 website and mobile phone application; boating, cruising and newspaper periodicals; social media; and area yacht clubs and marinas. The plan shall be prepared soliciting input from and in cooperation with the National Marine Fisheries Services (NMFS), U.S. Coast Guard (USCG), California State Lands Commission, California Department of Parks and Recreation (CDPR), Bay Conservation and Development Commission (BCDC), **California Department of Boating and Waterways (DBW), the Port of San Francisco, The San Francisco Estuary Partnership (SFEP),** local organizations active in protecting marine resources **and relevant industry stakeholders. Examples of industry stakeholders include but are not limited to California Harbormasters and Port Captains Association, Marina Recreation Association, Clean Marinas California Program, Recreational Boaters of California, the Pacific Inter-Club Yacht Association and boat yard representatives.**

Justification:
The second paragraph does not include all relevant agencies and stakeholder representatives. The Department of Boating and Waterways' (DBW) mission is to provide safe and convenient public access to California's waterways and leadership in promoting the public's right to safe, enjoyable, and environmentally sound recreational boating. DBW and partners such as The San Francisco Estuary Partnership (SFEP) have been educating the boating community for many years and have developed educational tools to increase the awareness of clean boating practices related to potential sources of boat pollution (oil, fuel, sewage, hazardous wastes, detergents, and marine debris). Marinas are one of the most common sources of this type of information for boaters. Therefore, it is essential to involve marinas and other recreational boating industry representatives in the event planning process due to their direct contact with the boating community. These representatives could inform the AC34 attendees about clean and safe boating practices, event information and local laws and regulations. Industry representatives can also provide the AC34 project sponsors with valuable feedback before and after the event. **04** [BIM-8a] cont.

- *Bullet 2*

To Read:
*Marinas, and safe anchoring **and mooring** locations **and methods** that boaters may use to dock or anchor their vessels in the **San Francisco** Bay **and in nearby bays and other waterways**.*

- *Bullet 9*

To Read:
Materials produced by DBW that include information about onsite and nearby environmental services that support clean boating practices (such as the location of sewage pumpouts, oil change facilities, used oil recycling centers, bilge pumpouts, absorbent pad distribution and spent pad collection, and boat to boat sewage and bilge pumpout services).

These materials include but are not limited to:

- **Environmental Boating Laws Brochure:**
  - http://www.coastal.ca.gov/ccbn/EnvironmentalLawsBrochure.pdf
- **ABCs of California Boating Law:**
  - http://www.dbw.ca.gov/Pubs/abc/
- **Clean Boating Habits:**
  - http://www.dbw.ca.gov/Pubs/CleanBoatingHabits/Default.aspx
- **San Francisco Bay Area Clean Boating Map:**
  - http://www.coastal.ca.gov/ccbn/SF_Bay_Clean_Boating_Map.pdf
- **San Francisco Bay Pumpout Guide and Map for Boaters:**
  - http://www.sfestuary.org/userfiles/Bay%20Map.pdf
  - http://www.sfestuary.org/userfiles/Bay%20Guide.pdf
- **A Boaters Guide to Keeping Pollutants Out of the Water**
  - http://www.coastal.ca.gov/ccbn/bindercard.pdf
- **Northern California Tide Book**

04 [BIM-8a] cont.

Justification:
DBW has the expertise, information and resources already developed to promote clean and safe boating practices through out the event. These resources are well known in the San Francisco Bay, have been used for over a decade and have been developed in partnership with the marine industry, and have been used for over a decade. These widely used materials could be updated in partnership with above listed entities to include event information and additional environmental information such as the location of Eel Grass Beds.

Additional Mitigation Measures to be Included for Impact BI-12

- AC34 project sponsor shall work with marinas in developing maintenance service plans that should include contingency plans for pumpout failure and maintenance to avoid excessive downtime. The sponsor shall also encourage the use of mobile pumpout services to mitigate for the increase in pumpout network demand.

  Justification:
  The Bay will be receiving thousands of visitors including recreational boaters that may need the use of dockside sewage pumpouts. Currently, 38 marinas have sewage pumpout systems in the Bay. Considering the boundaries and travel limitations during the race, 10 marinas are expected to experience abnormal variance in their sewage pumpout usage due to their proximity to the event. We expect the capacity for the Bay Area pumpout systems to be exceeded at some locations by the large number of visiting boaters. Research has shown that convenience is one of the main factors that boaters consider when using pollution prevention services. The crowding resulting from increased use may deter many boaters from using the pumpout systems, leading to increased sewage discharge into the Bay. In addition, there will be many large yachts (over 100 ft) that won't be able to access a majority of these pumpout systems. In order to properly serve the boating community and prevent illegal sewage discharges into the Bay, it is imperative that the AC34 project sponsor work with DBW and others to improve capacity to meet event needs. Possible avenues to address these issues as suggested by the US EPA include: pumpout installation, increased boat-to-boat mobile pumpout usage (http://www.sfestuary.org/userfiles/SFBayAreaMServices_May11(1).pdf) and boater education (access to maps and educational tools.) The installation of new pumpout systems in the bay area

05 [HY-9c]

would leave a lasting legacy to support clean boating practices. In addition to these suggestions, sewage pumpouts that become inoperable before and during the event should be repaired in a timely manner. AC34 project sponsor should encourage marinas to develop maintenance service plans and procure replacement parts to expedite pumpout and dump station repair to avoid excessive down time. For information about sewage pump out grants (Clean Vessel Act Grant), contact California Department of Boating and Waterways (Kevin Atkinson (916) 263-8149 katkinson@dbw.ca.gov http://www.dbw.ca.gov/Funding/Pumpout.aspx)

Note that information regarding this topic should also be included on page 5.16-66

05 [HY-9c] cont.

- The AC34 event project sponsor shall provide and distribute fuel pollution prevention tools such as fuel bibs, fuel doughnuts and "no spill" bottles to boating facilities with fueling services.

  Justification:
  In addition to promoting materials related to clean boating practices, DBW suggests that the AC34 project sponsor provide fuel pollution prevention tools (fuel bibs, fuel doughnuts and "no spill" bottles) to boating facilities with fueling services. This is a low cost, high impact mitigation measure that will help to prevent oil and fuel discharge related impacts. In addition, AC34 project sponsor should promote the use and proper disposal of oil absorbents in all powerboat bilges to capture small leaks and drips from the engine. Oil absorbents can be purchased at marine supply stores or found at marinas that actively distribute and collect them for free as a way of reducing oily discharges from powerboats. Used oil and oil filters can also be disposed of at marinas providing these services. Locations for these environmental services including marine battery recycling and Bay Area household hazardous waste collection can be found in the San Francisco Bay Clean Boating Map (link above).

  Note that information regarding this topic should also be included on page 5.16-69 at the end of the "Increased Boater Discharges, Spills, and Littering in the Bay.

06 [HY-7]

- Expand hazardous waste capacity for commercial and recreational boaters to mitigate the increase of hazardous waste streams.

  Justification:
  The America's Cup event will probably increase the hazardous waste stream (i. e. oily bilge water, used oil and oil filters, expired marine flares, paint, thinners, solvents). It is suggested that the AC34 project sponsors coordinate with the City and County of San Francisco Department of the Environment, Toxic Reductions Division (Cynthia Knowles, Cynthia.Knowles@sfgov.org 415-355-3760) and the Hazardous Materials Unified Program Agency (Virginia St. Jean, Virginia.StJean@sfdph.org (415) 252-3907) to set up temporary hazardous waste collection centers. Potential sites may include Lower Fort Mason (Gas House Cove), Hyde Street Pier and South Beach Harbor.

  Note that information regarding this topic should also be included on page 5.16-69 at the end of the Increased Boater Discharges, Spills, and Littering in the Bay section.

07 [HY-9b]

- The Zero Waste Plan shall include volunteer based cleanup events in partnership with volunteer efforts currently being conducted to clean the Bay of marine debris.

  Justification:

08 [HY-9e]

To mitigate the impact of solid waste and trash introduced into the Bay from AC34 events, DBW suggests implementing volunteer cleanup events both landside and on the water in coordination with California Coastal Commission's Coastal Cleanup Day and Adopt A Beach programs. To coordinate these events, contact Eben Schwartz (415) 904-5210 (eschwartz@coastal.ca.gov) or Shannon Waters (415) 904-5214 (swaters@coastal.ca.gov). **08** [HY-9e] cont.

Note that information regarding this topic should also be included on page 5.16-69.

- Promote clean boating practices via educational signs.

  Justification:
  In order to complement mitigation measure M-BI-12: Visiting Mariners Information, DBW suggests implementing a clean boating multi-faceted outreach strategy. Based on research, the most common sources of information for boaters in California include marinas, marine supply stores, boat shows, boating events and word-of-mouth. Therefore, it is imperative to provide clean and safe boating information to event participants at these sources. DBW suggests that AC34 project sponsor develop educational signs that can be posted at waterway entrance points including boat launch ramps, marinas, yacht clubs and ports. These signs should include succinct best management practices for potential sources of pollution including oil and fuel, sewage, detergents, hazardous waste and marine debris. The signs would continue to benefit the environment and aid boaters for years to come. DBW and its partners have the expertise and information to assist the AC34 project sponsor in developing these signs. This information can also be used to educate the boating public via advertisements in high circulation boating publications such as Latitude 38 and Bay and Delta Yachtsman, among others. **09** [HY-7]

  Note that information regarding this topic should also be included on page 5.16-67 at the end of the Increased Vessel Usage of Marina and Boatyard Facilities section.

- AC34 sponsor shall develop and post signs with federal and state sewage discharge laws to ensure boaters are aware of discharge regulations.

  Justification:
  Educational signs have proven to be one of the most effective methods of educating boating communities. Visiting boaters are likely to be unfamiliar with rules and regulations that apply in the Bay, increasing the need for these regulations to be displayed. In order to increase knowledge and compliance of federal and state sewage discharge laws, it would be ideal to develop and install informational signs displaying the information on the rules and regulations at each sewage pumpout station. DBW could assist the AC34 project sponsor in developing these signs.

  Note that information regarding this topic should also be included on page 5.16-69 at the end of the Increased Boater Discharges, Spills, and Littering in the Bay section.

M-BI-16 Mitigation Measures – Invasive Marine Species Control **10** [BIM-7]

- *First Paragraph*

To Read:
The project sponsor shall develop and implement an Invasive Species Management Plan prior to commencement of any in-water work including piers, wharfs, bulkheads, pile driving, and installation of temporary structures. The plan shall be prepared in consultation with the United States Coast Guard (USCG), RWQCB, California State Lands Commission, **California Department of Fish and Game, San Francisco Estuary Partnership (SFEP), and the Smithsonian Environmental Research Center, The Department of Boating and Waterways (DBW), The Port of San Francisco and other relevant public agencies**. Provisions of the plan shall include but not be limited to the following:

Justification:
Several key agencies were left off of this list that are currently doing work with aquatic invasive species. They are developing guidelines and requirements to prevent the spread of aquatic invasive species. Please contact Karen McDowell (SFEP) (510) 622-2398 or kmcdowell@waterboards.ca.gov for detailed information. **10** [BIM-7] cont.

- *Second Bullet*

  To Read:
  Actions to be taken to prevent the release and spread of marine invasive species, especially algal species such as Undaria and Sargasso **including boater education information, signage, and pre and post boat hull inspection of boats using temporary moorings at the Port of San Francisco.**

  Justification:
  More specific information on preventative actions should be included.

  Note that this information should be reflected on page 5.14-116 in the Invasive Marine Species Control at Port Facilities.

Section 5.16: Hydrology and Water Quality
See comments on M-BI-12 Visiting Mariners Information regarding inclusion of clean and green boating information. **11** [HY-7]

5. Environmental Setting, Impacts, and Mitigation Measures

Sections referencing mitigation measures BI-12 and BI-16 will need to be edited to reflect these recommendations. These pages include but are not limited to:
5.14-100
5.14-102
5.14-110-11
5.14-116
5.16-66-69
7-60 (Table 7-4) **12** [HY-7]

5.14 Biological Resources – Marine Resources
Page 5.14-116

- The San Francisco Bay-Delta is the most invaded aquatic ecosystem in North America, and may be the most invaded estuary in the world. The AC34 project sponsor needs to incorporate and promote guidelines and legal requirements developed by United States Coast Guard (USCG), RWQCB, California State Lands Commission, California Department of Fish and Game, San Francisco Estuary Partnership (SFEP), the Smithsonian Environmental Research Center, The Department of Boating and Waterways (DBW), The Port of San Francisco and other relevant public agencies to prevent the spread of AIS. Currently, these agencies and organizations are developing these guidelines and requirements. The DEIR focuses more on the Invasive Species Management strategies for in-water work including piers, wharfs, bulkheads, pile driving, and installation of temporary structures and at port facilities. The DEIR needs to incorporate specific preventative actions for boats as they are one of the primary vectors for aquatic invasive species. **13** [BIM-8b]

- DBW recommends that the proposed new terminal provide both sewage pumpout facilities and receptacles to dispose of waste oil and oil absorbents to contribute to the event's environmental legacy for San Francisco. Future use of this terminal would be enhanced by the addition of these pollution prevention services for the boating community and would also help to achieve this event's sustainability goals.

  Justification:
  The San Francisco Bay Plan part IV bullet (3) referenced on page 4-12 of the draft EIR states:

  > *(3) No new marina or expansion of any existing marina should be approved unless water quality and circulation will be adequately protected and, if possible, improved, and an adequate number of vessel sewage pumpout facilities that are convenient in location and time of operation to recreational boat users should be provided free of charge or at a reasonable fee, as well as receptacles to dispose of waste oil.*

  The Non Point Source Pollution Control Program parts 4.1.G, 4.1.H, and 4.2.F referenced on pages 5.16-43 and 5.16-44 of the draft EIR state:

  > ***4.1.G. Sewage Facilities*** — Install pumpout, pump station, and restroom facilities at new and expanding marinas where needed to prevent sewage discharges directly to State waters.
  >
  > ***4.1.H. Waste Management Facilities*** — Install facilities at new and expanding marinas where needed for the proper recycling or disposal of solid wastes (e.g., oil filters, lead acid batteries, used absorbent pads, spent zinc anodes, and fish waste as applicable) and liquid materials (e.g., fuel, oil, solvents, antifreeze, and paints).
  >
  > ***4.2.F. Maintenance of Sewage Facilities*** — Maintain pumpout facilities in operational condition, and encourage their use so as to prevent and control untreated sewage discharges to surface waters.

14 [GEN-4]

5.16 Hydrology and Water Quality – MSD Effluent Discharge Limitations for Type I and II

- This section should provide better information regarding where the effluent from MSDs Type I and II cannot be discharged. An additional paragraph on this definition should read:

  Type I or II Marine Sanitation Devices (MSD) are illegal to discharge while in "restricted waters" such as a marina, swimming/wading areas, a sanctuary, poorly flushed areas, lakes, reservoirs, or freshwater impoundments and federally designated No Discharge Zones. If operating in these waters, Type I or Type II MSD's must be connected to a holding tank or secured to prevent any sewage discharge (40 CFR 140.4). AND "It is illegal to discharge treated or untreated wastes into a federally designated No Discharge Zone. Your MSD's must be connected to a holding tank or secured to prevent all sewage discharges. Fines of up to $2,200 can be imposed for illegal discharges" (33 CFR 159.7 [b] and [c])

15 [HY-9c]

5.16 Hydrology and Water Quality - Increased Vessel Usage of Marina and Boatyard Facilities
Page 5.16-66

- This section does not address how boatyards should avoid significant and unavoidable impacts to water quality. In addition, DBW suggests that project sponsor and AC34 project sponsor incorporate the Recommended Practices (RPs) for boatyards, which are intended to promote environmental stewardship. These RPs are currently being developed by the California Department of Toxic Substances Control (DTSC) in partnership with DBW, California Coastal Commission, Department of Pesticide Regulation, San Francisco Department of Public Health, industry representatives, and the Baykeeper. The implementation of these RPs will assist boatyards in implementing effective pollution prevention strategies. Please contact Suhasini Patel (spatel@dtsc.ca.gov (916) 322-4233) and/or Dan Garza (DGarza1@dtsc.ca.gov) for the RPs information.

- Section 5.16 should reflect the information included above under Additional Mitigation Measures to be included for impact BI-12, bullet 1: The Bay will be receiving thousands of visitors including recreational boaters that may need the use of dockside sewage pumpouts. Currently, 38 marinas have sewage pumpout systems in the Bay. Considering the boundaries and travel limitations during the race, 10 marinas are expected to experience abnormal variance in their sewage pumpout usage due to their proximity to the event. We expect the capacity for the Bay Area pumpout systems to be exceeded at some locations by the large number of visiting boaters. Research has shown that convenience is one of the main factors that boaters consider when using pollution prevention services. The crowding resulting from increased use may deter many boaters from using the pumpout systems, leading to increased sewage discharge into the Bay. In addition, there will be many large yachts (over 100 ft) that won't be able to access a majority of these pumpout systems. In order to properly serve the boating community and prevent illegal sewage discharges into the Bay, it is imperative that AC34 project sponsor work with DBW and others to improve capacity to meet event needs. Possible avenues to address these issues as suggested by the US EPA include: pumpout installation, increased boat-to-boat mobile pumpout usage (http://www.sfestuary.org/userfiles/SFBayAreaMServices_May11(1).pdf) and boater education (access to maps and educational tools). The installation of new pumpout systems in the bay area would leave a lasting legacy to support clean boating practices. In addition to these suggestions, sewage pumpouts that become inoperable before and during the event should be repaired in a timely manner. AC34 project sponsor should encourage marinas to develop

16 [HY-8, HY-9c]

maintenance service plans and procure replacement parts to expedite pumpout and dump station repair to avoid excessive down time. For information about sewage pump out grants (Clean Vessel Act Grant), contact California Department of Boating and Waterways (Kevin Atkinson (916) 263-8149 katkinson@dbw.ca.gov (http://www.dbw.ca.gov/Funding/Pumpout.aspx) 16 [HY-8, HY-9c] cont.

Additional Considerations

- **Encourage and Promote Safe Boating.** DBW recommends that safe boating be included in the EIR and the Implementation Plans. Safe boating is not only important to prevent injury on the water, but accidents can also lead to environmental harm. The AC34 project sponsor should encourage recreational boating participants to always wear life jackets during the event and to take a boating safety course. For California approved boating courses, visit www.dbw.ca.gov/boaterinfo/bscourses.aspx. Safe boating information about rules and regulations is also found in the ABCs of California Boating Law publication. On the water boating safety trainings are also available through aquatic centers funded by the Department of Boating and Waterways including: University of California San Francisco, University of California Berkeley, San Francisco State University, Treasure Island Sailing Center, Healing Waters, Environmental Traveling Companions, Oakland Parks and Recreation, and the California Maritime Academy. For more information call the Department of Boating and Waterways at (888) 326-2822. Boaters may also access life jackets on a loan basis at the San Francisco Marina Small Craft Harbor located at 3950 Scott Street, San Francisco; (415) 831-6322; http://www.dbw.ca.gov/BoaterInfo/LifeJacket.aspx. 17 [PD-7]

If you have any questions or would like to discuss any of these comments, please feel free to contact me.

Thank you for your consideration of these comments.

Sincerely,

Vivian Matuk
Environmental Boating Program Coordinator
California Department of Boating and Waterways
California Coastal Commission
45 Fremont Street, Ste 1900
San Francisco, CA 94105
(415) 904-6905
vmatuk@coastal.ca.gov

cc:
Bob Batha, Coastal Program Manager, Chief of Permits Bay Conservation and Development Commission
Captain Matt Bliven, United States Coast Guard
Xavier Fernandez, Environmental Scientist, San Francisco Regional Water Quality Control Board
Michael Martin, Project Director - Office of Economic and Workforce Development, City and County of San Francisco
Kyri McClellan, Executive Director, San Francisco America's Cup Organizing Committee
Melanie Nutter, San Francisco Department of the Environment, Director
Jill Savery, America's Cup Event Authority, Sustainability

COM-59

Department of Toxic Substances Control

Matthew Rodriquez
Secretary for
Environmental Protection

Deborah O. Raphael, Director
700 Heinz Avenue
Berkeley, California 94710-2721

Edmund G. Brown Jr.
Governor

RECEIVED
AUG 2 ? 2011
CITY & COUNTY OF S.F.
PLANNING DEPARTMENT
MEA

August 23, 2011

Ms. Joy Navarrete
San Francisco Planning Department
Environmental Planning
1650 Mission Street, Suite 400
San Francisco, California 94103

Dear Ms. Navarrete:

Thank you for the opportunity to comment on the Draft Environmental Impact Report for the 34th America's Cup and James R. Herman Cruise Terminal and Northeast Wharf Plaza (SCH# 2011022040). As you may be aware, the California Department of Toxic Substances Control (DTSC) oversees the cleanup of sites where hazardous substances have been released pursuant to the California Health and Safety Code, Division 20, Chapter 6.8. As a potential Responsible Agency, DTSC is submitting comments to ensure that the environmental documentation prepared for this project to address the California Environmental Quality Act (CEQA) adequately addresses any required remediation activities which may be required to address any hazardous substances release.

Section 5.17, Hazards and Hazardous Materials, identifies a potentially significant hazard that may result from demolition and removal of creosote-treated pilings, or treated wood waste (TWW). Because TWW contains hazardous chemicals at potentially elevated levels, it is subject to California's Hazardous Waste Control Law. The DTSC has developed alternative management standards for TWW that are based upon full hazardous waste requirements but are adjusted for the unique circumstances associated with TWW. The alternative management standards are presented in California Code Regulations title 22, division 4.5, chapter 34. A Fact Sheet summarizing the requirements for generators of TWW is provided for your information and guidance (enclosure). 01 [HZ-2]

DTSC and the Regional Water Quality Control Boards (Regional Boards) signed a Memorandum of Agreement, March 1, 2005 (MOA) aimed to avoid duplication of efforts among the agencies in the regulatory oversight of investigation and cleanup activities at brownfield sites. Under the MOA, anyone requesting oversight from DTSC or a Regional Board must submit an application to initiate the process to assign the 02 [HZ-1a]

A-DTSC

Joy Navarrete
August 23, 2011
Page 2

appropriate oversight agency. The completed application and site information may be submitted to either DTSC or Regional Board office in your geographical area. The application is available at http://www.calepa.ca.gov/brownfields/MOA/application.pdf. 02 [HZ-1a] cont.

Please contact Ryan Miya at (510) 540-3775 if you have any questions or would like to schedule a meeting. Thank you in advance for your cooperation in this matter.

Sincerely,

Ryan Miya for

Denise Tsuji, Unit Chief
Northern California - Coastal Cleanup
Operations Branch

Enclosure

cc with enclosure:
Governor's Office of Planning and Research
State Clearinghouse
P.O. Box 3044
Sacramento, California 95814-3044

Guenther Moskat
CEQA Tracking Center
Department of Toxic Substances Control
P.O. Box 806
Sacramento, California 95812-0806

COM-60

A-OPR

STATE OF CALIFORNIA
Governor's Office of Planning and Research
State Clearinghouse and Planning Unit

Edmund G. Brown Jr.
Governor

Ken Alex
Director

RECEIVED
AUG 2 , 201
CITY & COUNTY OF S.F
PLANNING DEPARTMENT
M E A

August 25, 2011

Joy Navarrete
San Francisco Planning Department
1650 Mission Street, Ste. 400
San Francisco, CA 94103

Subject: The 34th America's Cup and James R. Herman Cruise Terminal and Northeast Wharf Plaza
SCH#: 2011022040

Dear Joy Navarrete:

The State Clearinghouse submitted the above named Draft EIR to selected state agencies for review. On the enclosed Document Details Report please note that the Clearinghouse has listed the state agencies that reviewed your document. The review period closed on August 24, 2011, and the comments from the responding agency (ies) is (are) enclosed. If this comment package is not in order, please notify the State Clearinghouse immediately. Please refer to the project's ten-digit State Clearinghouse number in future correspondence so that we may respond promptly.

Please note that Section 21104(c) of the California Public Resources Code states that:

> "A responsible or other public agency shall only make substantive comments regarding those activities involved in a project which are within an area of expertise of the agency or which are required to be carried out or approved by the agency. Those comments shall be supported by specific documentation."

01 [INT-3]

These comments are forwarded for use in preparing your final environmental document. Should you need more information or clarification of the enclosed comments, we recommend that you contact the commenting agency directly.

This letter acknowledges that you have complied with the State Clearinghouse review requirements for draft environmental documents, pursuant to the California Environmental Quality Act. Please contact the State Clearinghouse at (916) 445-0613 if you have any questions regarding the environmental review process.

Sincerely,

Scott Morgan
Director, State Clearinghouse

Enclosures
cc: Resources Agency

1400 TENTH STREET P.O. BOX 3044 SACRAMENTO, CALIFORNIA 95812-3044
TEL (916) 445-0613 FAX (916) 323-3018 www.opr.ca.gov

A-RWQCB

California Regional Water Quality Control Board
San Francisco Bay Region

1515 Clay Street, Suite 1400, Oakland, California 94612
(510) 622-2300 • FAX (510) 622-2460
http://www.waterboards.ca.gov/sanfranciscobay

Matthew Rodriquez
Secretary for Environmental Protection

Edmund G. Brown Jr.
Governor

August 19, 2011
Site No. 02-38-C0133 (XF)
CIWQS Place No. 764059

Sent via electronic mail: No hard copy to follow

San Francisco Planning Department
1650 Mission Street, Suite 400
San Francisco, CA 94103
Attn.: Mr. Bill Wycko, Environmental Review Officer
Email: bill.wycko@sfgov.org

Subject: Comments on the Draft Environmental Impact Report for the 34th America's Cup Races and James R. Herman Cruise Terminal and Northeast Wharf Plaza, SCH No. 2011022040

Dear Mr. Wycko:

The San Francisco Bay Regional Water Quality Control Board (Regional Water Board) appreciates the opportunity to provide comments on the draft environmental impact report (DEIR) for the 34th America's Cup Races and James R. Herman Cruise Terminal and Northeast Wharf Plaza (Project). The Project involves retrofitting and repairing piers, creating berths and moorings for boats, establishing areas for racing team operations, spectators, and the media, conducting sailing races, demolishing the Pier 27 shed and a portion of the Pier 29 shed, constructing a new LEED-certified cruise terminal, and creating a multi-use recreational area. Based on the information provided in the DEIR, we offer the following comments:

Comment 1: Construction Best Management Practices and Impact HY-1 (Construction and Demolition Activities Above and Near the Bay)

On pages 3-84 and 3-85, the DEIR lists standard construction specifications proposed by the City of San Francisco and the America's Cup Event Authority (Project Proponents). These specifications would include removal and disposal of all construction material, wastes, debris, sediment, rubbish, and trash in compliance with applicable federal, State, and local laws and regulations. On page 5.16-61, the DEIR states that water quality impacts associated with construction and demolition activities above or near San Francisco Bay would be less-than-significant with implementation of the proposed standard construction specifications and water quality control measures required under the State Water Board's Construction General Storm Water Permit (General Permit), and additional permitting requirements of the U.S. Army Corps of Engineers (Corps), Regional Water Board, and Bay Conservation and Development Commission. 01 [HY-3]

It is unclear, however, how the construction waste materials and debris will be managed prior to offsite disposal. The DEIR should describe potential storage locations for debris generated by demolition activities and provide a recommended list of best management practices (BMPs) for

COM-61

A-RWQCB

preventing waste materials and debris from entering San Francisco Bay. The General Permit requires waste materials to be contained and covered every night regardless of whether it is raining. In addition, debris stockpiles should be covered if there is the potential for wind to transport dust and debris fragment into San Francisco Bay. 01 [HY-3] cont.

Comment 2: the Waste Management Plan and Impact HY-1 (Littering)

On page 3-89, the DEIR discloses that the Project Proponents will develop a Waste Management Plan to meet or exceed the City's goals for landfill diversion. The Waste Management Plan would include requirements for the following:

- Food and beverage vendors to use compostable and/or recyclable to-go food utensils and packaging;
- Vendors to maintain adequate composting and recycling receptacles and service levels to meet demand for expected crowds;
- Coordination with local recycling and composting collection firms to ensure adequate collection service; and
- Prohibitions on the use of non-recyclable or non-compostable food service materials in event areas.

02 [HY-9e]

On page 5.16-69, the DIER states that implementation of the Waste Management Plan would ensure that there would be sufficient receptacles and service levels to meet the demand from the expected crowds. As a result, water quality impacts related to littering would be less than significant.

The Regional Water Board strongly recommends incorporating an outreach and education program into the Waste Management Plan to: 1) inform spectators where trash receptacles are located, and 2) encourage spectators to properly dispose of trash and litter. The Port of San Francisco has obtained coverage under the State Water Board's General Permit for Discharges of Storm Water from a Small Municipal Separate Storm Sewer System (Small MS4 Permit). Under the Small MS4 Permit, the Port is required to perform public education and to include large events, such as the America's Cup, in its education program.

We also strongly suggest that the Waste Management Plan include placement of trash receptacles and adequate collection services in areas where vendors will not be present. In addition, the Waste Management Plan should include a policing element to enforce litter laws and a cleanup element to pick up litter that is left by spectators at the end of each day.

Comment 3: Cruise Terminal Post-Construction Storm Water

On pages 3-104 through 3-106, the DEIR discloses that the new cruise terminal will include a rainwater harvesting system. This system will collect and store rainwater that falls on the roof for later re-use onsite. In addition, stormwater improvements, such as catch basins and stormwater filters, would be added to the outdoor areas. 03 [HY-10a]

We support the proposed rainwater harvesting system and stormwater improvements as a means to conserve water and improve water quality. We request that the DEIR be revised to include the

locations and types of stormwater improvements being proposed. The staff parking spaces shown in Figure 3-33, for instance, may be a good location for stormwater treatment because they are adjacent to a road that will be used to enter and exit the pier. 03 [HY-10a] cont.

Comment 4: Dredging

On pages 5.14- through 5.14-86 and, the DEIR discloses that dredging associated with the America's Cup would disturb habitat, potentially increase contaminant loadings to San Francisco Bay, and resuspend sediments. These impacts were determined to be less than significant because:

- The benthic community inhabiting the Port area is very common;
- The benthic community is expected to recover to pre-dredging conditions within a few months to under two years; and
- Testing and BMPs required by the Long Term Management Strategy (LTMS) program for dredged sediments would reduce impacts for contaminants and resuspended sediment to less than significant. 04 [BIM-5a]

The DEIR also discloses on pages 5.16-62 that as part of the permitting process the Project Proponents would prepare a sampling and analysis plan, sample the sediments to be dredged, report on the sediment quality, and submit a disposal application with the disposal method and location for review and approval by the agencies involved with the LTMS program.

As part of the permitting process, the DEIR should note that the Regional Water Board and the Corps will expect the Project Proponents to submit an analysis of alternatives that avoid and minimize dredging impacts. For instance, there may be alternative locations to place moorings that would avoid the need for dredging.

Comment 5: Mitigation Measure M-BI-12

We acknowledge and appreciate the development of outreach materials for boaters that will be coming to view the America's Cup Races. In addition to clean boating measures, such as proper and legal waste handling information and locations of sewage pump out facilities, the proposed outreach materials will include measures that boaters should take to prevent the introduction and spread of invasive species in San Francisco Bay.

To provide clarity on what will be included in the outreach materials, we request that the DEIR include a preliminary list of information sources for these materials. For instance, a pumpout guide and map for boaters can be found at www.sfestuary.org/boating and outreach materials from the State's Boating Clean & Green Campaign can be found at http://www.coastal.ca.gov/cebn/boating_posters.html and http://www.coastal.ca.gov/cebn/EnvironmentalLawsBrochure.pdf. 05 [HY-7]

The DEIR also previously noted that San Francisco Bay is considered the most invaded estuary in the world. Therefore, we request that the DEIR be revised to indicate that the outreach materials will also include measures to prevent invasive species from leaving San Francisco Bay (and invading other waters) in addition to measures to prevent invasive species from entering and spreading within San Francisco Bay. We also suggest revising the DEIR to indicate that the

outreach materials would include a description of how invasive species directly impact boaters. For example, New Zealand's Clean Boats-Living Seas program lists impacts to boats, such as damaging paint and hulls and increasing fuel costs, as well as including BMPs to avoid spreading invasive species (http://www.biosecurity.govt.nz/files/enter/ships clean-boats-brochure.pdf). Other information sources for invasive species outreach materials can be found at http://www.marinepests.gov.au/__data/assets/pdf_file/0009/1109592/biofouling_guidelines_rec.pdf, http://www.daff.gov.au/__data/assets/pdf_file/0019/114247/biofouling-factsheet.pdf, http://www.daff.gov.au/__data/assets/pdf_file/0020/114248/biofouling-maint-logbook.pdf, and http://www.cleanboating.org.nz/data/A%20boatie's%20guide%20to%20marine%20biosecurity.pdf. 05 [HY-7] cont.

Lastly, we recommend coordinating outreach efforts with agencies that regulate boating activities, such as the U.S. Coast Guard, the State Department of Boating and Waterways, and the State Lands Commission.

Comment 6: Industrial Storm Water Permit

On page 5.16-42, the DEIR states that any project activity regulated under the State Water Board's General Industrial Storm Water Permit would need to obtain coverage if it remains in place during the rainy season. On page 5.16-73, the DEIR also indicates that America's Cup events would be conducted during the dry season when no stormwater run off would be generated. Please note that both these statements are incorrect.

Any facility performing activities regulated under the General Industrial Storm Water Permit is required to obtain coverage under this permit unless it is documented that the facility does not and will not discharge via a separate stormwater collection and conveyance system to waters of the United States. In the San Francisco Bay Area, storms occasionally occur during the dry season. Therefore, operating solely during the dry season cannot be used as a basis for not obtaining coverage under the General Industrial Storm Water Permit. Industrial facilities that do not need to obtain coverage either (1) discharge only to a sanitary or combined sewer system or (2) capture, treat, and/or dispose of process wastewater and stormwater onsite. 06 [HY-10b]

Comment 7: Under-Pier Water and Sewer Pipelines

On page 5.16-53, the DEIR states that the Regional Water Board has issued a notice of violation (NOV) for the discharge of potable water from Pier 15. It also discloses the poor condition of the under-pier infrastructure proposed for use during America's Cup activities.

We appreciate the efforts that the Port of San Francisco has undertaken to assess the condition of its under-pier infrastructure. We intend to continue working with the Port to improve the condition of its under-pier infrastructure. As part of this on-going work, the DEIR should assess whether there will be impacts associated with the use of these piers for America's Cup activities. For piers proposed for use during the America's Cup activities, we also request that the DEIR report on the under-pier infrastructure that will and will not be upgraded or replaced before America's Cup events. If any impacts are identified during this assessment, the DEIR should propose mitigation to reduce the impacts to less than significant. 07 [HY-13]

Closing

Please contact Xavier Fernandez at 510-622-5685 or xafernandez@waterboards.ca.gov with any questions or comments.

Sincerely,

Digitally signed by Bruce Wolfe
Date: 2011.08.19 12:02:42 -07'00'

Bruce H. Wolfe
Executive Officer

cc: State Clearinghouse
Joy Navarette, San Francisco Planning Department, Joy.Navarrete@sfgov.org
Chris Kern, San Francisco Planning Department, Chris.Kern@sfgov.org
Kelley Capone, Port of San Francisco, KCapone@sfwater.org
Brad Bensen, Port of San Francisco, Brad.Benson@sfport.com
Chris Scianni, State Lands Commission, Chris.Scianni@slc.ca.gov
Vivian Matuk, Department of Boating and Waterways, vmatuk@coastal.ca.gov
DesaRae Janszen, U.S. Coast Guard, DesaRae.A.Janszen@uscg.mil

This page intentionally left blank

ASSOCIATION OF BAY AREA GOVERNMENTS
Representing City and County Governments of the San Francisco Bay Area

August 25, 2011

Bill Wycko
Environmental Review Officer
San Francisco Planning Department
1650 Mission Street, Suite 400
San Francisco, CA 94103

Subject: **34th America's Cup and James R. Herman Cruise Terminal and Northeast Wharf Plaza Draft Environmental Impact Report**

Dear Mr. Wycko:

On behalf of the Association of Bay Area Governments (ABAG), these comments pertain to temporary and long-term impacts the 34th America's Cup will have on the San Francisco Bay Area Water Trail as described in the Draft Environmental Impact Report. ABAG is working with the State Coastal Conservancy, the Bay Conservation and Development Commission, the California Department of Boating & Waterways, local governments, park districts, shoreline agencies, non-profit organizations and the public to implement this new regional trail system.

The San Francisco Bay Area Water Trail (Water Trail) Project is designed to create a network of launch and landing sites, or "trailheads," for human-powered boats and beachable sail craft.[1] Water Trail users will enjoy the historic, scenic and environmental richness of San Francisco Bay through single and multiple-day trips on the bay. The Water Trail will promote safe, responsible boating and increase appreciation and protection of the Bay's environmental resources.

The Draft EIR highlights the Water Trail with a description of the *Enhanced San Francisco Bay Water Trail Plan* and a map of existing and proposed launch sites in San Francisco and southern Marin County (Figure 5.11-5). There are seventeen existing and proposed Water Trail launch and destination sites in San Francisco and southern Marin County within close range of the proposed America's Cup Sailing Race Area.

San Francisco Water Trail Sites		
SF12	Crissy Field	Existing
SF11	Marina Green	Existing
SF10	Aquatic Park	Existing
SF9	Treasure Island	Existing
SF14	Northeast Wharf Park	Proposed
SF13	Brannan Street Wharf	Proposed
SF8	South Beach Harbor (Pier 40)	Existing
SF7	Pier 52 Boat Launch	Existing
SF6	The "Ramp"	Existing
SF4	Islais Creek	Existing
SF2	india Basin Shoreline Park	Existing
SF1	Candlestick Point State Recreation Area	Existing
Southern Marin County Water Trail Sites		
M1	Kirby Cove	Existing
M2	Horseshoe Cove	Existing
M3	Swede's Beach, Sausalito	Existing
M19	Sam's Anchor Café, Tiburon	Existing
M17	Angel Island State Park	Existing

01 [RE-1]

[1] These include human-powered watercraft such as kayaks, whale boats, outrigger canoes, etc. and sailboards such as windsurfers and kiteboards.

Mailing Address: P.O. Box 2050 Oakland, California 94604-2050 (510)464-7900 Fax: (510) 464-7970 info@babag.ca.gov
Joseph P. Bort MetroCenter 101 Eighth Street Oakland, California 94607-4756

A-ABAG

Hosting the America's Cup in the Bay Area will bring unprecedented attention and interest to San Francisco Bay and its environs. It will highlight San Francisco's public waterfront to the rest of the world and celebrate water-based recreation on and along the edge of San Francisco Bay. However, there will be significant temporary and potentially long-term impacts on the human-powered boat user's ability to access existing launch sites. These impacts would not have occurred without the America's Cup Race. For these reasons, we have identified projects that can address this reduction in existing and planned shoreline public access for non-motorized boat users.

01 [RE-1] cont.

Water & Air Traffic Plan / Public Information Program
These plans, as described in the EIR, will develop the details of water circulation during race events for all forms of watercraft and identify necessary public information messages. To accommodate the races, commercial shipping will have to be concentrated during times when the races are not underway. As a result, this will create especially dangerous conditions on the water for kayakers and other non-motorized boaters. Information about these conditions should be widely distributed to educate and inform boat users of these safety concerns. We would like to be involved in the development of the plan to provide input from the non-motorized boater's perspective and minimize these impacts.

02 [RE-5]

Restricted Access to the Waterfront & Loss of Open Water Basins
It is our understanding that during the America's Cup events, access to the San Francisco Bay shoreline edge will be significantly restricted for small watercraft such as kayaks within and around the race area. In addition, there is the potential for the permanent loss of open water basins that will have a direct impact on non-motorized small boat users. The changes to these areas, Piers 14-22, Pier 27 and Piers 30-32, should require mitigation to offset the impacts. We request that the Final EIR require the improvement of existing non-motorized boat launch sites and creation of new sites along the waterfront, including:

- Pier 1 ½ -- Design of this launch site has been stalled due to engineering requirements. Since the waters are rough in this area, the launch needs to be specially engineered and managed to withstand these conditions. Re-engineering of the launch design is needed.
- Pier 52 -- The new ramp for motorized boats has been installed, but the low float dock for non-motorized boats has not.
- Pier 14 -- The location of the stairs at this pier could offer a good location for creation of a new non-motorized launch that is protected from the waves.

Accessible kayak launch(es)
Prior to the America's Cup race events, create at least one launch for kayaks along the waterfront that is fully accessible for people with disabilities, and advertise its existence.

03 [RE-1]

Floating viewing docks
The EIR identifies a need to provide places for private recreational watercraft to view the races from designated areas. We request that the Final EIR include floating docks or other structures in the open water as destinations for non-motorized small boat users to safely view race activities.

04 [GEN-5]

Treasure Island
The EIR identifies Treasure Island as a prime viewing area for the races. We request that the Final EIR include mitigation that requires improvements to the launch sites on the back side of the island that are currently in disrepair. These sites could provide a safe destination for boaters arriving from the East Bay to view the race.

05 [GEN-5, RE-7]

A-ABAG

Human-powered Boater Education Fund
In advance of the America's Cup, develop and launch an education program that specifically helps non-motorized boat users find fun, safe ways to enjoy the America's Cup events. Maximize the long-term benefits of this education by linking this funding and effort with the Water Trail Outreach and Education Program that will begin in September 2011. 06 [GEN-5]

The 34th American's Cup is an opportunity to promote water recreation, encourage the use of small watercraft and promote completion of the San Francisco Bay Area Water Trail. We appreciate your consideration of the comments in this letter. Please contact me at (510) 464-7935 or laurat@abag.ca.gov if you have questions.

Sincerely,

Laura Thompson

Laura Thompson
Bay Trail Project Manager

cc: Ann Buell, Coastal Conservancy
Ellen Miramontes, BCDC
Steve Watanabe, California Department of Boating and Waterways

A-ACTransit

Service Development and Planning Department
1600 Franklin Street, Oakland CA 94612

August 25, 2011

Bill Wycko
Environmental Review Officer
San Francisco Planning Department
1650 Mission Street, Suite 400
San Francisco, CA 94103

Subject: Comments on the Draft Environmental Report for the 34th America's Cup

Dear Mr. Wycko:

Thank you for the opportunity to comment on the Draft Environmental Impact Report (DEIR) for the 34th America's Cup in San Francisco. AC Transit believes that this project application provides the city with an opportunity to appropriately determine transportation alternatives for major planned events in the city.

Project Description: The 34th America's Cup project sponsors—the City and County of San Francisco (CCSF) and the America's Cup Event Authority—propose to host the 34th America's Cup (AC34) sailing races in San Francisco Bay. A series of AC34 yacht races would be held in San Francisco Bay in 2012 (America's Cup World Series) and in 2013 (Louis Vuitton Cup, America's Cup Challenger Series; potential America's Cup Defender Selection Series; and the Match).

AC Transit Service to the Event: AC Transit provides 24-hour service to San Francisco, 7 days per week. We provide daily all-day service to the Transbay Temporary Terminal (Temp Terminal) via the F (Berkeley), NL (MacArthur), and O (Alameda). On weekdays, the all-day service is supplemented with peak-hour commute service from all parts of our transit district. AC Transit also operates All-nighter service to San Francisco on Line 800. The line serves the BART Stations on Market Street and the Temp Terminal before returning to the East Bay. Overall, AC Transit provides 28 weekday and 4 weekend lines between the East Bay and San Francisco. Frequency on these lines ranges from every 8 minutes to hourly.

Impacts and Mitigations: AC Transit appreciates the project sponsor's effort to assess traffic impacts, which could affect our bus operations, as well as direct impacts to our service capacity. Due to the lack of committed funding at this time to advance the People Plan, AC Transit understands that a number of the impacts related to our transit operations are identified as significant and unavoidable. These impacts include. 01 [TR-5]

- Weekend vehicle load capacity on AC Transit's Transbay service
- Traffic delay at the intersection of Fremont Street and Folsom Street in 2013 on weekends; this intersection is along AC Transit's bus-only routing to the Bay Bridge

If the City is able to obtain funding for the People Plan, we encourage the project sponsor to prioritize funds to mitigate the impacts identified above.

A-ACTransit

Although the DEIR accurately does not identify impacts to other aspects of AC Transit's operations, we respectfully ask the city to monitor and respond to the following transit-related issues should they arise during event days:

- Significant additional weekend traffic delay at the Bay Bridge Toll Plaza – Although the DEIR does not identify a delay impact to westbound Bay Bridge traffic, AC Transit requests that the city closely monitor the bridge traffic conditions in the event of unanticipated increases in vehicle volumes. A possible way to address this issue, should it occur, could be to enforce weekend HOV lanes approaching the Bay Bridge. 02 [TR-5]
- Weekday capacity overloads on Transbay bus service – Although the DEIR does not identify passenger capacity impacts to AC Transit's weekday Transbay service due to current available capacity, there could be potential capacity impacts during the PM peak hour of service (also known as "the peak of the peak") when vehicle occupancy is higher than measured in the report. The report measures capacity over the entire peak when there are more available seats on the shoulders of that time period. In this instance, we would request that the city minimize impacts to our existing ridership and coordinate with AC Transit to identify other transit alternatives to the East Bay. 03 [TR-5]

Finally, we request that the city to incorporate incentives into the People Plan for encouraging transit use. We understand that as part of the plan, the city is exploring incentives through the region's Clipper Card program. AC Transit would be pleased to work with the city on implementing this and other transit incentives. 04 [TR-5]

Thank you for your interest in AC Transit's comments on this event. We look forward to continuing to work with the city on the event planning, specifically the implementation of the People Plan. If you have questions about this letter, please contact Robert del Rosario, Senior Transportation Planner at 891-4734 or via e-mail at rdelrosa@actransit.org.

Yours Truly,

Cory LaVigne
Director of Service Development and Planning

Cc: Tina Spencer
Nathan Landau
Robert del Rosario

2

COM-67

A-BAAQMD

BAY AREA AIR QUALITY MANAGEMENT DISTRICT
SINCE 1955

ALAMEDA COUNTY
Tom Bates (Chairperson)
Scott Haggerty
Jennifer Hosterman
Nate Miley

CONTRA COSTA COUNTY
John Gioia (Vice-Chair)
David Hudson
Mark Ross
Gayle B. Uilkema

MARIN COUNTY
Harold C. Brown, Jr.

NAPA COUNTY
Brad Wagenknecht

SAN FRANCISCO COUNTY
John Avalos
Edwin M. Lee
Eric Mar

SAN MATEO COUNTY
Carole Groom
Carol Klatt

SANTA CLARA COUNTY
Susan Garner
Ash Kalra (Secretary)
Liz Kniss
Ken Yeager

SOLANO COUNTY
James Spering

SONOMA COUNTY
Susan Gorin
Shirlee Zane

Jack P. Broadbent
EXECUTIVE OFFICER/APCO

September 1, 2011

Bill Wycko
Environmental Review Officer
San Francisco Planning Department
1650 Mission Street, Suite 400
San Francisco, CA 94103

Subject: The 34th America's Cup and James R. Herman Cruise Terminal and Northeast Wharf Plaza Draft Environmental Impact Report

Dear Mr. Bill Wycko:

Bay Area Air Quality Management District (District) staff has reviewed your agency's Draft Environmental Impact Report (DEIR) which addresses two related projects: (1) the 34th America's Cup (AC34), and (2) the James R. Herman Cruise Terminal and Northeast Wharf Plaza (Cruise Terminal). We understand that AC34 will take place in the summer and fall of 2012 and 2013, and that the Cruise Terminal consists of the development of a new primary passenger cruise terminal at Pier 27 (which will replace the current primary cruise terminal at Pier 35). Pier 27 will house one of the primary AC34 venues in 2013, the America's Cup Village and is also the site proposed by the Port of San Francisco (Port) for the development of the Cruise Terminal project. According to the DEIR, the shore-side electrical power installation that was supported by funding from the District and put into place by the Port at Pier 27 in 2010 will be decommissioned due to construction of the Cruise Terminal and AC34-related activities, and is assumed to be unavailable in 2012 and 2013 (pg. AQ.1-3).

District staff has the following specific comments on the Project's environmental analysis.

Shore-side Power Decommission

The operational analysis for AC34 in the DEIR accounted for cruise ship hoteling emissions resulting from the removal of the shore-side power system installed at Pier 27 in 2010. According to the DEIR (pg. AQ.1-3), shore-side power is assumed to be unavailable in 2012 and 2013. Average daily and maximum annual operational emissions from AC34 are displayed on pg. 5.8-33 of the DEIR. However, the operational emissions shown on pg. 5.8-33 only include emissions from the shore-side power decommissioning for 2013, rather than for both 2012 and 2013. In addition, as shown on pg. 5.8-33 of the DEIR, the maximum annual emissions for the shore-side power decommissioning are indicated to be 22 tons per year of criteria air pollutants. The DEIR does not clearly communicate how this estimate of emissions was calculated. According to the contract between the Port and the District for the $1.9 million grant provided to the Port in 2010 for installation of the shore-side power, the emissions and cost-effectiveness calculations which were utilized to determine the monetary value of the grant indicated that the shore-side power would reduce approximately 32 tons per year of criteria air pollutants. Accordingly, the DEIR 01 [AQ-2]

Printed using soy-based inks on 100% post-consumer recycled content paper

939 ELLIS STREET • SAN FRANCISCO CALIFORNIA 94109 • 415.771.6000 • WWW.BAAQMD.GOV

should utilize the District's calculation of 32 tons per year of criteria air pollutants for both 2012 and 2013 when analyzing the cruise ship hoteling emissions at Pier 27 in the operational analysis for AC34, or clearly explain and justify why a different estimate may be appropriate. 01 [AQ-2] cont.

The DEIR also evaluated a project variant, the Pier 27 Shed Variant, in which construction of the Pier 27 cruise terminal would not be completed until after the end of the 2014 cruise season, i.e., in late 2013 through 2014. As such, shore-side power would not be available at Pier 27 for 3 years (pg. 5.8-54 of the DEIR). However, the estimated emissions for the Pier 27 Shed Variant shown in Table 5.8-13 assumes the loss of shore-side power for only two years as a result of the delayed construction. The DEIR should estimate cruise ship emissions associated with the Pier 27 Shed Variant for three years because, as is stated on pg. 5.8-54 of the DEIR, shore-side power would not be available for three years (2012-2014) rather than two (2012-2013). 02 [AQ-2]

District staff recommends that the AC34 and Cruise Terminal projects do not decommission shore-side power for cruise ships at Pier 27 at any point in time. Decommissioning the shore-side power will not fulfill the objective of the contract between the Port of San Francisco and the District for the $1.9 million in AB923 funds granted by the District for electrification of the shore-side power to avoid cruise ship emissions. Additionally, criteria air pollutant emissions associated with the loss of shore-side power during the AC34 and Cruise Terminal projects will adversely impact local and regional air quality. 03 [AQ-2]

If the shore-side power is decommissioned, the emissions should be entirely off-set through the implementation of additional shore-side electrification projects at other piers in San Francisco, such as the dry dock at Pier 70 for military and cruise vessels, and Pier 94 (currently used by Canadian Shipping for gravel import). Such projects will assist the region in meeting health-based state and federal ambient air quality standards, as well as reduce greenhouse gas emissions. 04 [AQ-5]

Criteria Air Pollutant Emissions Analysis

According to the DEIR, emissions from operational activities associated with AC34 exceed the District's significance threshold for criteria air pollutants. The DEIR identified significant and unavoidable impacts from operational activities associated with AC34. Accordingly, all feasible mitigation measures should be implemented to reduce the emissions from this impact to the maximum extent feasible. The DEIR identifies one mitigation measure, **M-AQ-4: Emission Controls for Race-Sponsored Vessels**, which requires (as feasible) all contracts for race-sponsored vessels to meet U.S. EPA Tier 3 or better engine standards for marine diesel engines. However, according to the DEIR, the estimated criteria air pollutant emissions from race-sponsored vessels are less than 5% of the total estimated emissions from all sources of criteria air pollutants, which includes race support vessels, small private vessels, large private vessels, assist tugs, boat lifts, generators, helicopters, truck trips, and the shore-side power decommission. Therefore, any emission reductions from **M-AQ-4** would be minimal at best, as the mitigation measure only applies to less than 5% of the total estimated criteria air pollutant emissions. 05 [AQ-5]

The largest sources of criteria air pollutants include small private vessels and race support vessels, which together account for approximately 80% of all the estimated criteria air pollutant emissions associated with operational-related activities from AC34. Therefore, the City should require **M-AQ-4** be applied to all race sponsored and support vessels, for which Tier 3 or higher engines are commercially available. This requirement should be stipulated in all subsequent contracts with the event organizers

For the remaining sources of emissions, such as private vessels, the AC34 and Cruise Terminal projects should be required to implement an offsite mitigation program to achieve additional criteria air pollutant emission reductions. An offsite mitigation program could be implemented by the City/County or through the District's Carl Moyer Memorial Air Quality Standards Attainment Program (CMP). If through the District's CMP program, the project applicant would provide funding for the emission reduction projects in an amount up to $16,640 per weighted ton of criteria pollutants [NOx + ROG + (20*PM)] above the District's significance thresholds. This is the current emission reduction project cost-effectiveness limit set by the California Air Resources Board (ARB) for the CMP. The actual costs needed to offset this project's emissions would be dependent on the types of projects funded. The range of costs could be anywhere from approximately $5,000 per weighted ton to the upper limit of $16,640 per weighted ton. An administrative fee of 5% would be paid by the project applicant to the District to implement the program. The funding could be used to fund a combination of the project types listed below:

- Projects eligible for funding under the CMP guidelines that are real, surplus, quantifiable, and enforceable; and
- Projects to replace older, high emitting, gasoline powered harbor craft (commercial and recreational) engines operating in the Bay Area with newer, cleaner, more efficient engines (2010 Clean Air Plan, Mobile Source Measure C-3), which would address the largest source of criteria air pollutant emissions in the AC34 project.

06 [AQ-5]

Offsite mitigation programs have been implemented throughout the State for CEQA purposes and are considered a feasible mitigation measure for this project by the District. The District would recommend the following mitigation measure be made a condition of approval for this project:

- The AC34 and Cruise Terminal projects shall implement an offsite mitigation program to substantially reduce the amount of criteria air pollutant emissions above the District's thresholds of significance. The applicant and the District shall work together to identify the total amount of emissions needed to be offset through the offsite mitigation program after taking into consideration any measures implemented by the applicant to reduce AC34's criteria air pollutant emissions. The applicant and the District will then agree on the amount of funding needed from the applicant to achieve these emission reductions through the types of projects listed above.

Risks and Hazards for New Sources and Receptors Analysis

Based on the analysis in the DEIR, the AC34 project would introduce new sources of toxic air contaminants (TAC) and PM2.5 that would adversely impact sensitive receptors (current and future residents within 1,000 feet of AC34 and the Cruise Terminal, and AC34 event spectators). The DEIR has identified significant and unavoidable impacts from AC34 to sensitive receptors from construction- and operational-related activities.

The DEIR included mitigation measures **M-AQ-2a** (which requires minimizing idling times of construction equipment; proper maintenance and tuning of equipment; and that on-road diesel trucks used to transport soils be year 2007 or newer), **M-AQ-2b** (which requires all off-road construction equipment to meet Tier 3 standards; and all diesel generators to meet Tier 4 emission standards, if feasible), **M-AQ-4** (which requires all contracts for race-sponsored spectator vehicles to stipulate that such vehicles meet US EPA Tier 3 or better engine standards, as feasible) and **M-AQ-5** (which requires that all diesel generators at AC34 event and viewing locations conform to a level of 07 [AQ-3]

performance equal to Tier 4 interim, or Tier 2/3 engine fitted with a Level 3 Verified Diesel Emissions Control, or use natural gas/gasoline-powered generators in lieu of diesel, as feasible).

The DEIR did not provide a receptor grid for determining the maximum exposed individual (MEI), the location(s) of the MEI, and the sources contributing to the risk and PM2.5 at the MEI. The DEIR does not clearly state what sources in what locations are contributing most to the impact at the MEI(s). Such information would help identify the most effective and efficient mitigation strategies. While the mitigation measures may reduce TAC and PM2.5 emissions in the AC34 project area, the "blanket" nature of the mitigation measures do not appear to target any specific location (or the sources of TAC/PM2.5 linked to the highest risk). We recommend directing the mitigation measures toward the sources that most significantly impact the MEI(s), which will not only be more effective in reducing the risks and hazards at the most impacted receptor(s), but will also be more cost-effective to implement. In addition, mitigation measures **M-AQ-2a** and **M-AQ-2b** are already required as state and federal mandates (as stated on pages 5.8-27 and 5.8-29 of the DEIR). Thus, the DEIR should have included the emissions reductions from the mitigation measures **M-AQ-2a** and **M-AQ-2b** when estimating the risks and hazards impacts. We recommend that the FEIR identify the location(s) of the MEI(s) in relation to the sources of the TACs/PM2.5, and that the FEIR identify additional feasible mitigation measures to reduce the impacts based on the sources causing the impact. **07** [AQ-3]

Due to the significant and immitigable impacts identified in the DEIR, the District recommends the following feasible mitigation measures be made conditions of approval for the AC34 project:

- Prohibit the use of diesel generators, and require equipment to plug-in to the existing utility;
- Provide propane tanks for generators equipped to operate on propane;
- Require the use of DPM filters on equipment where Tier 3 engines are not available; and
- Require the use of biodiesel or other alternative fuels in diesel generators, construction equipment and/or off-road vehicles.

08 [AQ-5]

Greenhouse Gas (GHG) Emissions Analysis

The DEIR assessed the consistency of the AC34 and Cruise Terminal projects with the City/County of San Francisco's *Strategies to Address GHG Emissions*. The DEIR found the AC34 and Cruise Terminal projects to be consistent with the *Strategies to Address GHG Emissions*, and therefore less than significant for operational-related GHG impacts. The City/County of San Francisco's Planning Department utilizes a "Compliance Checklist for Private Development Projects" (http://sf-planning.org/index.aspx?page=1886) to determine consistency with the *Strategies to Address GHG Emissions*. However, the "Compliance Checklist for Private Development Projects" includes a number of policies (for example, municipal green purchasing, regulation of diesel back-up generators, transit impact development fees, car sharing requirements, bicycling parking) that were not included nor assessed in the DEIR. Therefore, the DEIR does not provide a comprehensive analysis of all the City/County of San Francisco's *Strategies to Address GHG Emissions* to determine if the AC34 and Cruise Terminal projects are consistent and therefore impacts are less than significant. Staff recommends including all items as outlined in the "Compliance Checklist for Private Development Projects", regardless of whether the item is considered to be "Not Applicable" or "Project Does Not Comply". A discussion should be provided for those strategies that are marked "Not Applicable" or "Project Does Not Comply". **09** [GG-2a]

District staff is available to assist City staff in addressing these comments. If you have any questions, please contact Jackie Winkel, Environmental Planner, (415) 749-4933

Sincerely,

Jean Roggenkamp
Deputy Air Pollution Control Officer

cc: BAAQMD Director John Avalos
BAAQMD Director Edwin M. Lee
BAAQMD Director Eric Mar

CITY of BELVEDERE
450 San Rafael Ave. • Belvedere, CA 94920-2336
Tel: 415/435-3838 • Fax: 415/435-0130

August 24, 2011

Bill Wycko
San Francisco Planning Department
1650 Mission Street, Suite 400
San Francisco, CA 94103

RE: Case No. 2010-0493E: The 34th America's Cup Races and Justin R. Herman Cruise Terminal and Northeast Wharf Plaza

Dear Mr. Wycko,

Thank you for the opportunity to comment on the Draft Environmental Impact Report for the 34th America's Cup Races and related projects (Draft EIR). The Draft EIR prepared on July 11, 2011 is available for public review and comment on the potential environmental impacts associated with the America's Cup Races with the intent of clarifying the potential impacts and, possibly, mitigating or avoiding the impacts. The public comment period expires on August 25, 2011.

The legal basis for comments included herein prepared on behalf of the City of Belvedere in Southern Marin County is Government Code Section 15086. The City of Belvedere is writing as a Responsible Agency because a portion of the Proposed Sailing Race Area and other race related activities are within Belvedere City Limits. For projects requiring an EIR, the lead agency is required to consult with responsible agencies both in regards to the proper scope of the EIR and in regards to the substance of a draft EIR (CEQA 15082). **01** [INT-3, PD-3]

The City of Belvedere is very supportive of the efforts to plan for the America's Cup Races. The City of Belvedere requests that the EIR prepared for the America's Cup Races anticipate and describe the impacts to Belvedere and the greater Tiburon Peninsula resulting from the races and associated activities leading up to the races by recognizing Belvedere as part of the project area. The City of Belvedere also requests appropriate mitigation measures and mitigation resources for these impacts. Mitigations are necessary for impacts related to disruptions to transportation, emergency vehicle access, transit service, ferry service, police services, sound levels, water quality, fish and bird habitat, and City parks. **02** [1O-1c, IO-4a]

COM-70

Transportation

Southern Marin secondary viewing areas include the City of Belvedere lands and waters. Although Belvedere does not anticipate formal events for spectators during the races, the Community has views of the race area that are readily available from public areas. According to the Draft EIR, population estimates for land-based spectators at America's Cup 34 (AC34) secondary viewing areas for the Tiburon Peninsula, including the City of Belvedere, is from 25 to 1,000 visitors daily in 2012 and 2013, with an additional 1,000 visitors anticipated to travel through Tiburon to Angel Island. According to the Tiburon General Plan (2005) the existing level of service (LOS) of Tiburon Boulevard (California Highway 131) during the afternoon peak hour is LOS D. Highway 131, Tiburon Boulevard, is the sole means of direct emergency access to Belvedere and Tiburon from Trestle Glen to points south. This stretch of roadway provides a single lane of traffic in each direction. Emergency response within the communities of Belvedere and Tiburon, as well as unincorporated County of Marin, relies heavily on mutual aid from surrounding jurisdictions connected by Highways 101 and 131.

Implementation of the AC34 2012 and 2013 events is identified as having Significant and Unavoidable Impacts with Mitigation (SUM) on transit capacity (Golden Gate Transit bus and ferry lines, and Blue and Gold ferry lines) during the AC34 events to and from the North Bay (Impacts TR-22, TR-23, TR-65, TR-66, and TR-70). Page 5.6-85 of Volume I of the Draft EIR, states that the demand for transit generated by AC 34 2012 (and later AC 34 2013) would exceed the capacity of regional transit providers, such as Blue & Gold ferry service and Golden Gate Transit bus and ferry service. Because full funding for additional regional transit service is not identified in the Draft EIR, implementation of the mitigations outlined in the Draft EIR is uncertain. The Draft EIR is inadequate because the resources for these mitigations have not been identified and no party has been made responsible for implementing the measures. **03** [TR-3a]

The Draft EIR identifies impacts TR-34, TR-71 and TR-77 as having Less than Significant impacts. These impacts are related to possible disruptions to emergency service and disruptions to transit within secondary viewing area, such as Belvedere. Any reduction in transit service or other modes of transportation will significantly increase congestion on Highway 131 and likely delay emergency response. The analysis in the Draft EIR is not adequate or reliable if it does not further explore impacts on transit operations to and from the North Bay, including mitigations and mitigation resources addressing disruptions to ferry, bicycle, bus and car traffic to and from secondary viewing areas.

The City of Belvedere requests that multi-model traffic patterns be considered in the development of mitigations included in the Draft EIR and as *People Plan Specific Provisions*, in particular, typical commuting patterns and typical visitor modes of transportation (one-way bicycle and bus traffic to the Tiburon Peninsula and one-way ferry and bus trips back to San Francisco from the North Bay). **03** [TR-3a] cont.

The analysis in Section 5.6.1.7, Emergency Vehicle Access, is inadequate because it does not address impacts to Belvedere. Implementation of the AC34 2012 and 2013 events has been identified as having a Less Than Significant impact on emergency vehicle access (Impact TR-34 and TR-77). In the opinion of the City of Belvedere it is likely that there will be *significant impacts* related to obstructed and/or increased traffic on the Tiburon Peninsula roadways, specifically California Highway 101 and 131 (Tiburon Boulevard). Tiburon Boulevard is the only direct access land route to and from the City of Belvedere. Traffic congestion on the two-lane portion of this roadway will have an impact on emergency vehicle access. California Highway 101 and 131 are already significantly impacted due to local traffic patterns. The projected population increase due to the America's Cup 2012 and 2013 events could congest the roadway such that emergency vehicle access is not only impeded but impossible. **04** [TR-3a]

Public Services

According to the Draft EIR, population estimates for landside spectators range from 25 to 2,000 in the Belvedere and Tiburon area. Water-based spectators in 2012 and 2013 range from 650 to 2,200 recreational boats, with an estimated average of six passengers per boat and a total number of water-born passengers from 3,800 to 13,200 in San Francisco Bay on AC34 Race Days (AECOM, 2011, *Analysis of Visitation for America's Cup 34*, Draft Report, June 17, 2011).

The City of Belvedere requests mitigations measures in the Draft EIR and as *Public Safety Plan Specific Provisions* and *Water and Air Traffic Plans Specific Provisions* to protect the public safety and welfare of the citizens of City of Belvedere and the Tiburon Peninsula and visitors during the event, including increased demand for emergency response both on the water and off, increased demand for measures to protect Belvedere residents' security and peace, and increased demand for local disaster preparedness in the event of an earthquake or other natural disaster. **05** [PS-5]

City of Belvedere Parks and Open Water

The City of Belvedere supports the coordination of local agencies and jurisdictions to protect Recreational Resources (Mitigation Measure M-RE-1). Identified recreational water areas include City of Belvedere-owned waters. Known eel grass beds, shellfish beds and herring **06** [RE-7]

spawning areas overlap with recreational water areas. The City of Belvedere requests that the *Parks Event Operations Plan* include specific measures to protect and restore recreational resources both on land and on water. Post-event repair following each of the 2012 and 2013 AC34 events should be jurisdictionally cooperative and mandatory; and, should include habitat restoration for these known biological resources, in addition to any land resources damaged by event activities. The City of Belvedere requests the *Parks Event Operations Plan* include measures to mitigate potential impacts to Belvedere's park resources that are likely to be over-extended due to the projected event population impacts. Mitigation measures must include increased trash collection, facility repairs, restroom maintenance, pavement washing, lane repair, revegetation and resodding of parkland areas, and associated enforcement costs **06** [RE-7] cont.

Noise

Noise and Vibration. Chapter 5.7, of Volume 2 of the Draft EIR states that helicopters used by television broadcasters and other media may fly at altitudes of 100 to 300 feet above sea level within a one-half mile radius of the race area (page 5.7-42). Belvedere Island's maximum height is approximately 240 feet above sea level. The analysis does not address the impacts of helicopters on sensitive receptors and residences in Belvedere. The location of a temporary helipad on a barge in the San Francisco Bay is not identified. The analysis must provide detailed information on the use of airspace above the City and the project's compliance with Section 8.10 of the Belvedere Municipal Code, Noise Ordinance, and the Belvedere General Plan. Helicopter flight paths at low elevations over Belvedere residential neighborhoods will not be permitted. **07** [NO-4]

Plans and Policies

Chapter 4, Section 4.2.4 should reference the City of Belvedere's jurisdiction and the City's Zoning Ordinance, Title 19 of the Belvedere Municipal Code, and General Plan. A portion of the race area is identified in maps of the project within City limits. This portion of inundated land is zoned R (Recreation) and is identified in the General Plan as having an Open Space land use designation. In addition, Chapter 4 of the Draft EIR omits from the discussion of the San Francisco Bay Conservation and Development Commission's Plans and Policies a description of the Richardson Bay Special Area Plan, which includes a large portion of the race area. **08** [PP-3b]

Project Description

Lastly, the City of Belvedere notes that the Public Safety Plan race area differs from the Draft EIR proposed race areas. Race areas and **any race-related activities** overlapping City of Belvedere-owned waters will require the America's Cup Event Authority or other authorized **09** [PD-3, PD-4]

A-Belvedere

applicant to obtain a Conditional Use Permit from the City of Belvedere. The City of Belvedere will be tasked with relying on the EIR prepared for the project by the City of San Francisco when considering the Conditional Use Permit. Chapter 3.3 of the Draft EIR, Site Location, must be amended to include a description of the City of Belvedere's jurisdictional boundaries, and Figure 1-1 and 3-2 must be amended to illustrate Belvedere's jurisdictional boundaries. Chapter 3.3 should also include a description of all of the "Secondary Viewing Areas." 09 [PD-3, PD-4] cont.

The City of Belvedere looks forward to reviewing this letter with you and forwarding comments on the secondary plans associated with the Draft EIR, including the *People Plan, Water & Air Traffic Plans, Waste Management Plans*, and *Public Safety Plans*. The City of Belvedere looks forward to partnering with the America's Cup Event Authority and the San Francisco Planning Department for a successful America's Cup event.

Sincerely,

Pierce Macdonald

Pierce Macdonald
Planning Manager

cc: Mayor Butler and Members of the Belvedere City Council
Chair Johnson and Members of the Belvedere Planning Commission
Tiburon Chamber of Commerce, Attn. Stephanie Ziegler
San Francisco Yacht Club, Attn. Robert Heller
Corinthian Yacht Club, Attn. Timothy Ballard

A-GGBHTD

GOLDEN GATE BRIDGE
HIGHWAY & TRANSPORTATION DISTRICT

August 23, 2011

Bill Wycko
Environmental Review Officer
San Francisco Planning Department
1650 Mission Street, Suite 400
San Francisco, CA 94103

Dear Mr. Wycko:

As you may know, Golden Gate Bridge, Highway and Transportation District (District) staff has been participating in the development of the America's Cup People Plan and are looking forward to continuing collaboration. As the Regional Bus and Ferry Service Provider connecting the North Bay with San Francisco, with the City and County of San Francisco and SFMTA, the District appreciates this opportunity to comment on the Draft Environmental Impact Report for the 34th America's Cup and James R. Herman Cruise Terminal and Northeast Wharf Plaza. We are concerned about potential impacts to our regular Bus and Ferry operations, as well as operations on the Golden Gate Bridge, as a result of increased travel to and from the 34th America's Cup Races. District staff has reviewed the DEIR and offers the following specific comments: 01 [TR-6a]

From page 3-28:
3.4.3 AC34 Races

The District's comment on this section is:

- Golden Gate Ferries operate through the area designated as the race area seven days a week, from 6:00 a.m. to 10:00 p.m. on weekdays and from 10:00 a.m. to 8:00 p.m. on weekends. Golden Gate Ferry schedules should be taken into consideration when planning races, and disruption of schedules avoided as much as possible. Golden Gate Ferry staff must be kept apprised of race schedules and details of restrictions, and changes to schedules must be shared with Ferry staff as early as possible. 02 [PD-7]

From page 3-79:
AC34 Construction
AC34 2012
Piers 19 & 19 ½ and Piers 30-32

The District's comment on this section is:

- Golden Gate Transit service may be impacted by construction work at Piers 19-19½ and Piers 30-32. Golden Gate Transit buses use the Embarcadero as an alternative deadhead route, and congestion caused by construction activities at these sites may cause schedule delays. Even though this section of the Embarcadero is not currently used by GGT, at the time construction begins GGT may have moved to a San Francisco storage lot at Perry and 4th Streets, which could require the use of this segment of the Embarcadero. 03 [TR-12]

1011 ANDERSEN DRIVE • SAN RAFAEL, CA 94901-5381 • USA

AC34 2013
Piers 27 through 29

The District's comment on this section is:

- Work performed at Piers 27 through 29 has the potential for creating traffic delays that will impact Golden Gate Transit weekday peak service. 04 [TR-12]

From page 5.2-8:
Land Use/Setting/Ferry Building Area

The Ferry Building is a City landmark and a contributing resource to the Port of San Francisco Embarcadero Historic District. It is home to artisanal foods shops and restaurants on the ground floor. A twice-weekly farmer's market occurs outside. Offices occupy the second and third floors. Ferries to Tiburon, Angel Island, Larkspur, Vallejo, Oakland, and Alameda depart from the Downtown Ferry Terminal on the west side of the Ferry Building. 05 [LU-1]

The District's comment on this section is:

- Ferries to Sausalito also depart from the west side of the Ferry Building.

From page 5.3-13:
Visual Setting—AC34 Secondary Viewing Areas

The District's comment on this section is:

- The Golden Gate Bridge Toll Plaza and Vista Point are cited as secondary viewing areas for the AC34 events, but no analysis appears to have been performed on the impacts to the pedestrian environment in these areas. The project sponsor and the City of San Francisco should be aware that the AC34 events have the potential to seriously impact the pedestrian environment, not only at these two viewing areas, but on the eastern bridge sidewalk. The bridge sidewalk is heavily used by sightseers in the summer, both on foot and on bikes, as well as being used as a regular bicycle commute route. In addition, the bridge sidewalks are used by frequent events, such as races, throughout the year. Pedestrian and bicycle traffic from the AC34 impact could have a serious impact on safety and traffic flow on the bridge sidewalks. 06 [AE-4, TR-9b]

From page 5.6-24:
Transit Service/Regional Service Providers narrative:

Golden Gate Transit, operated by the Golden Gate Bridge, Highway, and Transportation District (GGBHTD), provides bus service between the North Bay (Marin and Sonoma Counties) 07 [TR-1b]

and San Francisco. Golden Gate Transit operates 22 commuter bus routes, 9 basic bus routes and 16 ferry feeder bus routes into San Francisco, several of which are at or near the temporary Transbay Terminal. Basic bus routes operate at regular intervals of 15 to 90 minutes depending on the time and say of week. Commute and ferry feeder bus routes operate at more frequent intervals in the mornings and evenings. Golden Gate Transit also operated ferry service between the North Bay and San Francisco. During the morning and evening commute periods, ferries are operated between Larkspur and San Francisco and between Sausalito and San Francisco. Additional North Bay ferry service operated by Blue & Gold connects both Sausalito and Tiburon with San Francisco.

Please replace this text with the following: Golden Gate Transit, operated by the Golden Gate Bridge, Highway, and Transportation District (GGBHTD), provides bus service between the North Bay (Marin and Sonoma Counties) and San Francisco. Golden Gate Transit operates 18 commuter bus routes and 5 basic bus routes into San Francisco, several of which operate near the temporary Transbay Terminal. Basic bus routes operate at regular intervals of 30 to 90 minutes, depending on the time and day of week. Commute bus routes operate at more frequent intervals in the mornings and evenings. GGBHTD also operates ferry service between the North Bay and San Francisco. Ferries operate between Larkspur and San Francisco and between Sausalito and San Francisco all day, seven days a week. Additional North Bay ferry service operated by Blue & Gold connects both Sausalito and Tiburon with San Francisco. 07 [TR-1b] cont.

Golden Gate Transit provides bus transportation to and from Sausalito to San Francisco and northern Marin County via Bridgeway and Alexander Avenue. A transit node is located downtown at Bridgeway and Bay Street, near the ferry landing. Both the Glue and Gold Fleet and the Golden Gate Transit District provide ferry service from Sausalito to San Francisco at Pier 41 and the Ferry Building.

Please replace this text with the following: Golden Gate Transit provides bus transportation to and from Sausalito to San Francisco and northern Marin County via Bridgeway and Alexander Avenue. A transit node is located downtown at Bridgeway and Bay Street, near the ferry landing. The Blue and Gold Fleet serves both Pier 41 and the Ferry Building, but Golden Gate Ferries serve only the Ferry Building.

From pages 5.6-72-84:
AC34 Events and Cruise Terminal Impacts and Mitigation Measures/America's Cup 2012/Impact TR1-12

The District's comment on this section is:

- The closure of the Embarcadero northbound during high attendance event days may have an important impact on Golden Gate Transit service, as the Embarcadero is used as an alternate deadhead route. In addition, Golden Gate Transit serves six out of 12 intersections that were predicted to experience significant impacts from the AC2012 events (The Embarcadero/Howard, Lombard/Divisadero, Lombard/Fillmore, Bush/Van 08 [TR-6b]

Ness, Pine/Van Ness, and Lombard/Van Ness). Added to that, many other intersections that are served by GGT were either not studied or were not considered to undergo a significant impact, but the District remains concerned about impacts of AC34-generated traffic on GGT on-time performance and service costs. The District is concerned about these potential impacts and relies on the City and project sponsors to implement all proposed mitigation measures. 08 [TR-6b] cont.

From page 5.6-84:
Impact TR-16, significant impacts on traffic operations at secondary viewing areas

The District's comment on this section is:

- Golden Gate Transit serves both the Tiburon and Sausalito waterfronts, and District staff is concerned about on-time performance and service costs to those locations during AC34 events. In addition, though Alexander Avenue was considered not to experience significant impacts, the District considers that considerable traffic delays may result from visitors who want to view race events from Fort Baker. 09 [TR-6d]

From pages 5.6-85 and 5.6-96:
Overview of Project Transit Impacts associated with the America's Cup 2012 Events
Impact TR-22: Exceed available transit capacity of Golden Gate Bus and Ferry Lines
Mitigation Measure M-TR-22: Additional Golden Gate Transit Service.

The AC34 2012 transit demand on regional transit services, including...Golden Gate Transit...would be accommodated within the existing available capacity during the weekday p.m. peak hour. However, on Saturdays, when substantially less regional transit capacity into and out of San Francisco is provided, the AC34 2012 transit demand would exceed the available capacity, thereby resulting in temporary significant impacts on...Golden Gate Transit operations. Implementation of Mitigations Measure...M-TR-22 (Additional Golden Gate Transit Service)...would require the City to work with the various regional transit providers to develop and implement an operating plan that would accommodate peak transit demands during the AC34 events to and from the..North Bay.... However, because full funding for additional regional transit service has not yet been identified, implementation of Mitigation Measures...M-TR-22... remains uncertain. Accordingly, AC34 2012 event's impacts to...Golden Gate Transit....transit capacity would remain significant and unavoidable. 10 [TR-6a]

The District's comment on this section is:

- The District appreciates the acknowledgement of potential impacts on GGT service and looks forward to working with the City to plan additional service in mitigation of these impacts. Should funding not become available, the District advises that impacts to its

existing service and customers may be severe. Additionally, the District would like to verify that this Mitigation Measure covers Golden Gate Ferry service as well as Golden Gate Transit bus service. It should be noted that generally, "Golden Gate Transit" refers to bus service and "Golden Gate Ferry" to ferry service. It is the District's understanding that additional bus and ferry service will be planned for this mitigation. 10 [TR-6a] cont.

From pages 5.6-102 and 103:

AC34 Events and Cruise Terminal Impacts and Mitigation Measures/Impact TR-26: potentially significant impact on transit operations related to additional congestion resulting from the project.

The District's comment on this section is:

- The District confirms and acknowledges the potential impact of AC34-related traffic congestion on Golden Gate Transit service, particularly on Lombard Street, Van Ness Avenue, Battery and Sansome Streets, and the Embarcadero. 11 [TR-6b]

From pages 5.6-102 and 103:
AC34 Events and Cruise Terminal Impacts and Mitigation Measures/Impact TR-27: Disrupt regular scheduled ferry operations.

The District's comment on this section is:

- Given that the City and race organizers do not propose to limit the impacts on scheduled ferry service by taking ferry schedules into account when planning the races, it is imperative that race organizers not only fulfill their commitment to communicating with the public about ferry schedule disruptions, but also coordinate with ferry service providers about these disruptions. 12 [TR-6c]

From page 5.6-103:
AC34 Events and Cruise Terminal Impacts and Mitigation Measures/Impact TR-28: Less than significant impacts on transit operations at secondary viewing areas.

As described in Section 5.1, Impact Overview, the secondary viewing areas are expected to attract visitors and spectators due to their potential viewing opportunities for the AC34 races. 13 [TR-6d]

These include the south side of Angel Island, overlooks in the Marin Headlands and at Fort Baker, and waterfront areas in Sausalito and possibly Belvedere and Tiburon...

As many of these viewing areas are in sparsely populated areas, and do not have transit service connecting to major destinations, the number of spectators traveling to and from these sites by transit would be limited, and would be dispersed over numerous lines. Therefore impacts on transit at secondary viewing areas would be less than significant.

13 [TR-6d] cont.

The District's comment on this section is:

- Given that additional transit ridership to Sausalito for AC34 events is predicted to be only 37 new passengers in 2012 and 52 new passengers in 2013 to Sausalito and less than a third of those figures to Tiburon and Belvedere, it appears that Golden Gate Transit (and Ferry, in the case of Sausalito) will be able to accommodate race-goers who want to take transit to these locations. However, if the predictions are exceeded in 2012, the District will want to revisit the question of providing extra service to these locations.

From pages 5.6-115-12:
AC34 Events and Cruise Terminal Impacts and Mitigation Measures/America's Cup 2013/Impacts TR38-59

The District's comment on this section is:

- Golden Gate Transit serves 12 out of 18 intersections that were predicted to experience significant impacts from the AC2013 events (The Embarcadero/Beach, The Embarcadero/Broadway, The Embarcadero/Howard, The Embarcadero/Folsom, The Embarcadero/Harrison, The Embarcadero/Bryant, Fremont/Folsom, Lombard/Divisadero, Lombard/Fillmore, Bush/Van Ness, Pine/Van Ness, Lombard/Van Ness). Added to that, many other intersections that are served by GGT were either not studied or were not considered to undergo a significant impact, but the District remains concerned about impacts of AC34-generated traffic on GGT on-time performance and service costs. The District is concerned about these potential impacts and relies on the City and project sponsors to implement all proposed mitigation measures. 14 [TR-6b]

From page 5.6-121:
Impact TR-59, significant impacts on traffic operations at secondary viewing areas

The District's comment on this section is:

- As stated earlier with regard to the AC34 (2012) events, Golden Gate Transit serves both the Tiburon and Sausalito waterfronts and is concerned about on-time performance and service costs to those locations during AC34 events. In addition, though Alexander 15 [TR-6d]

Avenue was considered not to experience significant impacts, the District considers that considerable traffic delays may result from visitors who want to view race events from Fort Baker. 15 [TR-6d] cont.

From pages 5.6-122 and 5.6-126:
Overview of Project Transit Impacts associated with the America's Cup 2013 Events;
Impact TR-65: Exceed available transit capacity of Golden Gate Bus and Ferry Lines;
And Mitigation Measure M-TR-22: Additional Golden Gate Transit Service

The AC34 2013 transit demand on regional transit services, including...Golden Gate Transit...would be accommodated within the existing available capacity during the weekday p.m. peak hour. However, on Saturdays, when substantially less regional transit capacity into and out of San Francisco is provided, the AC34 2013 transit demand would exceed the available capacity, thereby resulting in temporary significant impacts on Golden Gate Transit operations. Implementation of Mitigations Measure...M-TR-22 (Additional Golden Gate Transit Service)...would require the City to work with the various regional transit providers to develop and implement an operating plan that would accommodate peak transit demands during the AC34 events to and from the..North Bay.... However, because full funding for additional regional transit service has not yet been identified, implementation of Mitigation Measures...M-TR-22... remains uncertain. Accordingly, AC34 2013 event's impacts to...Golden Gate Transit....transit capacity would remain significant and unavoidable. 16 [TR-6a]

The District's comment on this section is:

- The District appreciates the acknowledgement of potential impacts on GGT service and looks forward to working with the City to plan additional service in mitigation of these impacts. Should funding not become available, the District advises that impacts to its existing service and customers may be severe. Additionally, the District would like to verify that this Mitigation Measure covers Golden Gate Ferry service as well as Golden Gate Transit bus service. It should be noted that generally, "Golden Gate Transit" refers to bus service and "Golden Gate Ferry" to ferry service. It is the District's understanding that additional bus and ferry service will be planned for this mitigation.

From pages 5.6-129 and 130:
AC34 Events and Cruise Terminal Impacts and Mitigation Measures/Impact TR-69: Potentially significant impact on transit operations related to additional congestion generated by the project. 17 [TR-6b]

The District's comment on this section is:

- The District confirms and acknowledges the potential impact of AC34-related traffic congestion on Golden Gate Transit service, particularly on Lombard Street, Van Ness Avenue, Battery and Sansome Streets, and the Embarcadero. 17 [TR-6b] cont.

From page 5.6-130:
AC34 Events and Cruise Terminal Impacts and Mitigation Measures/Impact TR-70: Disrupt regular scheduled ferry operations.

The District's comment on this section is: 18 [TR-6c]

- Just as with AC34 2012 events, it is imperative that race organizers not only fulfill their commitment to communicating with the public about ferry schedule disruptions, but also coordinate with ferry service providers about these disruptions.

From pages 5.6-130-131:
AC34 Events and Cruise Terminal Impacts and Mitigation Measures/Impact TR-71: less than significant impacts on transit operations at secondary viewing areas.

The District's comment on this section is: 19 [TR-6d]

- As stated above, given that transit ridership to Sausalito for AC34 events is predicted to be only 37 new passengers in 2012 and 52 new passengers in 2013 to Sausalito and less than a third of those figures to Tiburon and Belvedere, it appears that Golden Gate Transit (and Ferry, in the case of Sausalito) will be able to accommodate race-goers who want to take transit to these locations. However, if the predictions are exceeded in 2012, the District will want to revisit the question of providing extra service to these locations.

From page 5.6-138:
AC34 Events and Cruise Terminal Impacts and Mitigation Measures/Impact TR-80: potentially significant impacts to the transportation network in combination with other special events occurring simultaneously in San Francisco.

The District's comment on this section is: 20 [TR-2g]

- Given the potential to cause a major disruption to travel within San Francisco, the District encourages the City and the race organizers to analyze which special events are most likely to cause the most adverse impacts on traffic and transit capacity and to refrain from scheduling important races on days that coincide with those events.

From pages 5.6-165-66:
Future Long-Term Development Impacts and Mitigation Measures/Impact LT-TR: Long-Term Development under the Host Agreement would result in significant traffic and transit impacts.

With the addition of the 1,000 vehicle trips associated with the buildout of the assumed long-term development scenario to the local roadway network, the average delay per vehicle would increase and LOS operating conditions would worsen at intersections in the vicinity of the development sites. During the p.m. peak hour, a number of intersections along the Embarcadero between Brannan and Battery streets currently operate at LOS C or LOS D conditions, and the additional vehicle trips could deteriorate operating conditions to LOS E or LOS F, thereby resulting in significant impacts on traffic conditions. In addition, vehicle trips associated with the long-term development could contribute considerably to intersections in downtown and at the approaches to and from I-280 and U.S. 101 that currently operate at LOS E or LOS F conditions (e.g. First/Harrison/I-80 Eastbound on-ramp, Fourth/Bryant/I-80 Eastbound off-ramp, King/Fourth Street). Therefore, implementation of the long-term development projects as part of the Host Agreement would result in significant *traffic impacts oat one or more intersections in the vicinity of the potential development sites.* 21 [TR-6e]

The District's comment on this section is:

- Golden Gate Transit operates via the intersections of Embarcadero and Beach (a.m. peak) and Embarcadero and North Point (p.m. peak) on weekdays. In addition, Golden Gate buses use The Embarcadero between Battery and Howard/Folsom (and further south after the move is made to the new San Francisco storage lot at Stillman and Third Streets). A degradation of service in this area will have an impact on on-time performance and service cost for Golden Gate Transit.

From page 5.6-175:
Overview of Cumulative Impacts associated with the Cruise Terminal

The proposed project would generate new vehicle trips and increase the number of vehicles and average vehicle delays at the 22 study intersections. Under the 2035 Cumulative conditions, at 11 of the 22 study intersections, the LOS would either deteriorate from acceptable to unacceptable LOS (Broadway/Battery, The Embarcadero/Broadway, The Embarcadero/Washington, The Embarcadero/Mission, The Embarcadero/Harrison, The Embarcadero/Bryant, The Embarcadero/Brannon, The Embarcadero/Howard, The Embarcadero/Folsom) or would continue to be at unacceptable LOS (The Embarcadero/Beach and The Embarcadero/North Point during at least one of the study periods. At 5 of the 11 study intersections that would operate at LOS E or LOS F under 2035 Cumulative conditions, the Cruise Terminal project would contribute considerably to the critical movements that operate poorly, and since feasible mitigation have not been identified, would result in significant and unavoidable impacts (The Embarcadero/Washington, The Embarcadero/Washington [sic], The 22 [TR-6f]

Embarcadero/ Mission, The Embarcadero/Howard, The Embarcadero/Folsom). At six study intersections that would operate poorly under 2035 cumulative conditions, the project's contributions to the poor operating conditions would be less than significant (Broadway/Battery, The Embarcadero/Beach/Grant, The Embarcadero/North Point/Kearny, The Embarcadero/Harrison, The Embarcadero/Bryant, and The Embarcadero/Brannan). Eleven of the 22 study intersections would continue to operate at LOS D or better under 2035 cumulative conditions (Beach/Columbus, North Point/Columbus, North Point/Stockton, Bay/Columbus, Bay/Stockton, Bay/Kearny, Broadway/Sansome, The Embarcadero/Bay, The Embarcadero/Chestnut, The Embarcadero/Lombard, and The Embarcadero/Green). 22 [TR-6f] cont.

The District's comment on this section is:

- Golden Gate Transit operates via the intersections of Embarcadero and Beach (a.m. peak) and Embarcadero and North Point (p.m. peak) on week days. In addition, Golden Gate buses use The Embarcadero between Battery and Howard/Folsom (and further south after the move is made to the new San Francisco storage lot at Stillman and Third Streets). A degradation of service in this area will have an impact on on-time performance and service cost for Golden Gate Transit.

From page 6-8:
Significant Unavoidable Impacts/AC34/Transportation and Circulation:

- ✓ *Significant and unavoidable level of service impacts at 12 signalized and unsignalized intersections plus other nearby intersections in the project area during AC34 2012 events during either weekday or Saturday midday conditions (including Embarcadero/Beach, Embarcadero/Howard, King/Third, Lombard/Divisadero, Lombard/Fillmore, Bay/Laguna, Bay/Van Ness, Bush/Van Ness, Pine/Van Ness, Lombard/Van Ness, Lincoln/25th, Lombard/Lyon)*
- ✓ *Significant and unavoidable level of service impacts at 18 signalized and unsignalized intersections in the project area during AC34 2013 events during either weekday or Saturday midday conditions (including Embarcadero/Beach, Embarcadero/Broadway, Embarcadero/Howard, Embarcadero/Folsom, King/Third, King/Fourth, Lombard/Divisadero, Lombard/Fillmore, Bay/Laguna, Bay/Van Ness, Bush/Van Ness, Pine/Van Ness, Lombard/Van Ness, Lincoln/25th, Lombard/Lyon)* 23 [TR-6b]
- ✓ *Significant and unavoidable impacts contributing to congestion in downtown San Francisco and along the waterfront during the AC34 2013 events*
- ✓ *Significant and unavoidable impacts at secondary viewing areas and vicinity during AC34 2012 and 2013 events.*

The District's comments on this section are:

- Golden Gate Transit serves six out of 12 intersections that were predicted to experience significant impacts from the AC2012 events (The Embarcadero/Howard,

Lombard/Divisadero, Lombard/Fillmore, Bush/Van Ness, Pine/Van Ness, Lombard/Van Ness) and 12 out of 18 intersections that were predicted to experience significant impacts from the AC2013 events (The Embarcadero/Beach, The Embarcadero/Broadway, The Embarcadero/Howard, The Embarcadero/Folsom, The Embarcadero/Harrison, The Embarcadero/Bryant, Fremont/Folsom, Lombard/Divisadero, Lombard/Fillmore, Bush/Van Ness, Pine/Van Ness, Lombard/Van Ness). Added to that, many other intersections that are served by GGT were either not studied or were not considered to undergo a significant impact, but the District remains concerned about impacts of AC34-generated traffic on GGT on-time performance and service costs. . The District is concerned about these potential impacts and relies on the City and project sponsors to implement all proposed mitigation measures. 23 [TR-6b] cont.

- The District is also concerned about intersections not included in the study but which are in the downtown area potentially affected by race-related congestion (Financial District and South of Market) which Golden Gate Transit serves. 24 [TR-6b]
- Golden Gate Transit serves both the Tiburon and Sausalito waterfronts and is concerned about on-time performance and service costs to those locations during AC34 events. In addition, though Alexander Avenue was considered not to experience significant impacts, the District considers that considerable traffic delays may result from visitors who want to view race events from Fort Baker. 25 [TR-6d]

From page 7-21:
Selected AC34 Project Alternatives/No AC34 but Implementation of the Cruise Terminal Project

...the retention of a portion of the Pier 27 shed and east end of the Pier 29 shed would preclude the area proposed for the bus/truck turnaround area, and transportation/circulation impacts related to operations of the Cruise Terminal project and ground transportation area would be exacerbated.

The District's comments on this section are: 26 [AL-3]

- Given that the AC2012 and AC2013 would have some unavoidable significant impacts on intersections served by Golden Gate Transit, that secondary viewing areas served by Golden Gate Transit and Ferry could experience traffic and transit capacity impacts, and that the boat races themselves will impact Golden Gate Ferry operations, the No AC34 but Implementation of the Cruise Terminal Project would have less impact on Golden Gate Transit and Ferry service than the proposed project, as there would be no disruption to ferry service, no increase of traffic or transit ridership to secondary viewing areas, and less than significant impact to traffic operations in San Francisco.
- Cumulative and long-term impacts to Golden Gate Bus and Ferry would remain the same with the proposed project and the No AC34 but Implementation of the Cruise Terminal Project.

From pages 7-22-23:
Selected AC34 Project Alternatives/AC34 Open Ocean Alternative with the Cruise Terminal Project

The District's comments on this section are:

- Even though the document does not quantify the traffic impacts for this alternative, because of the lack of secondary viewing areas and much smaller scope for spectator participation, and because the races would not disrupt ferry operations, the District believes this alternative would have far less impact on District operations than the proposed project, but more impact than the No AC34 but Implementation of the Cruise Terminal Project.
- Cumulative and long-term impacts to Golden Gate Bus and Ferry would remain the same with the proposed project and the AC34 Open Ocean Alternative with the Cruise Terminal Project.

From pages 7-22-31:
Selected AC34 Project Alternatives/AC34 Open Ocean Alternative without the Cruise Terminal Project

The District's comments on this section are:

- Even though the document does not quantify the traffic impacts for this alternative, because of the lack of secondary viewing areas and much smaller scope for spectator participation, and because the races would not disrupt ferry operations, the District believes this alternative would have far less impact on District operations than the proposed project but more impact than the No AC34 but Implementation of the Cruise Terminal Project, and because under this alternative the Cruise Terminal itself would not be developed, it also would have less impact than the AC34 Open Ocean Alternative with the Cruise Terminal Project.
- Because the Cruise Terminal would not be developed, the cumulative and long-term impacts to Golden Gate Bus and Ferry would be fewer with the AC34 Open Ocean Alternative as compared with the proposed project.

From pages 7-33-34:
Selected AC34 Project Alternatives/Reduced Intensity AC34 and Long-Term Development Alternative without the Cruise Terminal Project:

The District's comments on this section are:

26 [AL-3] cont.

COM-78

- Impacts to Golden Gate Transit and Ferry operations would be less with this alternative than with the proposed project. It is possible that the impacts from this alternative would be greater than with the Open Ocean Alternative and the No AC34 but Implementation of the Cruise Terminal Project.
- Cumulative and long-term impacts would be less than with the proposed project, because of the reduced intensity of the Long-Term Development. In general, No Cruise Terminal alternatives have fewer long-term impacts than With Cruise Terminal alternatives.

Selected AC34 Project Alternatives/ AC34 Reduced Spectator Berthing Alternative

The District's comment on this section is:

- The impacts of this alternative and the proposed project on Golden Gate Bus and Ferry operations are virtually the same.

From page 7-65:
Cruise Terminal Project Alternatives Analysis/Significant Impacts that Can Be Mitigated to Less than Significant/Transportation and Circulation

The District's comment on this section is:

- Since Golden Gate Transit buses serve the intersections of Embarcadero and North Point and Embarcadero and Beach, just two blocks north of the proposed terminal, the District appreciates the value of this mitigation to our operations.

From page 7-68:
Cruise Terminal Project Selected Alternatives/Impacts of the Cruise Terminal No Project Alternative

The District's comment on this section is:

This alternative with No AC34 project results in no impacts to Golden Gate Bus and Ferry operations. This alternative with the AC34 Project results in slightly less impact than the proposed project.

From page 7-73:

26 [AL-3] cont.

A-GGBHTD

Cruise Terminal Project Selected Alternatives/Impacts of the Renovation of Pier 27 Shed Alternative

The District's comment on this section is:

- This alternative with No AC34 project results in far less impact to Golden Gate Bus and Ferry operations than the proposed project. This alternative with the AC34 Project results in somewhat greater impact than the proposed project, because of increased congestion on The Embarcadero. **26** [AL-3] cont.

Thank you for providing the District with the opportunity to submit comments on the Draft Environmental Impact Report for the 34th America's Cup and James R. Herman Cruise Terminal and Northeast Wharf Plaza. Please contact Barbara Vincent, Principal Planner, at 415-257-4465 if you have any questions regarding any of the District's comments.

Sincerely,

Ron Downing

Ron Downing
Director of Planning

c: Barbara Vincent
Jim Swindler
Teri Mantony
Rich Hibbs
Kellee Hopper
Peter Albert
Denis Mulligan

A-MBOS

COUNTY OF MARIN
THE BOARD OF SUPERVISORS OF MARIN
ADMINISTRATION BUILDING
3501 CIVIC CENTER DR. SUITE 329
SAN RAFAEL, CALIFORNIA 94903-4193
TELEPHONE (415) 499-7331
FAX (415) 499-3647
TTY (415) 499-6172
www.marincounty.org

August 25, 2011

Bill Wycko
San Francisco Planning Department
1650 Mission Street, Ste. 400
San Francisco, CA 94103

Re: 34th America's Cup Races and James R. Herman Cruise Terminal and Northeast Wharf Plaza Project Draft EIR

Dear Mr. Wycko:

My Supervisorial District in Marin County includes Sausalito, Tiburon, Belvedere, Marin City, Strawberry and Mill Valley – communities which will be significantly impacted by the 34th America's Cup races and the visitors who will come to enjoy these events. I write in support of the comments regarding the Draft Environmental Impact Report (DEIR) on the 34th America's Cup Races and James R. Herman Cruise Terminal and Northeast Wharf Plaza Project separately submitted by the Marin County Community Development Agency and by the Richardson's Bay Regional Agency. **01** [GEN-1]

It is critical for our communities that attention is given to managing increased vehicular, pedestrian and bicycle traffic; to promoting use of public transit; to planning for crowd control and providing sufficient restroom facilities and trash receptacles in appropriate locations; to evaluating greenhouse gas emissions relating to this project; and to mitigating impacts on our County parks and open space, including Aramburu Island Preserve, Old St. Hilary's Open Space Preserve, Ring Mountain Open Space Preserve, Paradise Beach County Park, and McNear's Beach County Park. Our communities also are concerned about the noise impacts of increased traffic, of helicopters in flight during the races, and of planned or spontaneous celebrations and race-related social events. **02** [IO-1b] **03** [RE-6, RE-7] **04** [NO-4, NO-5]

The expected influx of vessels visiting and/or anchoring in Richardson's Bay also raises significant issues, including the effect on shoreline habitat; the potential for increased discharge of effluents; and the impact of vessels' anchor chains on the eelgrass beds that are so important to the health of Richardson's Bay and its herring spawning grounds and mussel beds. **05** [HY-9a, HY9c]

PRESIDENT: SUSAN L. ADAMS, SAN RAFAEL, 1ST DISTRICT • HAROLD C. BROWN, SAN ANSELMO, 2ND DISTRICT • KATHRIN SEARS, SAUSALITO, 3RD DISTRICT • VICE PRESIDENT: STEVE KINSEY, SAN GERONIMO, 4TH DISTRICT • JUDY ARNOLD, NOVATO, 5TH DISTRICT • CLERK: MATTHEW H. HYMEL

A-MBOS

August 25, 2011
Page 2

The substantial influx of visitors will create enforcement challenges for the Richardson's Bay Regional Agency with respect to accommodating and regulating boaters' waste disposal and anchoring locations, and for the Marin County Sheriff's Office, which maintains law enforcement jurisdiction for all the unincorporated shoreline and waterways within Marin territorial waters. 06 [PS-5]

A coordinated Marin Operational Area response will be essential for ensuring emergency medical and fire protection services for visitors on boats and an effective security presence during the 34th America's Cup events. The additional resources required to meet anticipated regulatory, emergency and security needs are detailed in the comments submitted by the Marin County Community Development Agency and by the Richardson's Bay Regional Agency. 07 [PS-5]

Thank you for the opportunity to submit comments regarding the Draft EIR to assist the San Francisco Planning Department in its environmental review process. I look forward to ongoing discussions with you and other key participants in preparing for the 34th America's Cup races.

Sincerely,

Kathrin Sears
Supervisor
Southern Marin

COM-80

A-MCCDA

MARIN COUNTY
COMMUNITY DEVELOPMENT AGENCY
BRIAN C. CRAWFORD, DIRECTOR

August 25, 2011

Bill Wycko
San Francisco Planning Department
1650 Mission Street, Ste. 400
San Francisco, CA 94103

SUBJECT: Comments on the 34th America's Cup Races and James R. Herman Cruise Terminal and Northeast Wharf Plaza Draft EIR

Dear Mr. Wycko:

Thank you for providing the Marin County Community Development Agency (CDA) with the opportunity to submit comments regarding the Draft Environmental Impact Report (EIR) on the 34th America's Cup Races and James R. Herman Cruise Terminal and Northeast Wharf Plaza project. CDA respectfully offers the following comments to assist the San Francisco Planning Department in their environmental review process.

CDA along with other Marin County Departments such as Public Works, Parks & Open Space, Marin County Office of Emergency Services and the Marin County Sheriff's Department have consolidated our comments to include the following:

Traffic and Circulation:

In anticipation of the Level of Service to be F at the following County maintained intersections:

N Bridge Blvd @ Bridgeway
Southbound 101 offramp @ N Bridge Blvd

We recommend that the following items be addressed in the Final EIR and implemented before the event: 01 [TR-3a]

- map locations for pedestrian, vehicle, bicycle access to all potential viewing places
- map parking availability for rendezvous places to promote shuttling
- coordinate shuttling with local public transit (Golden Gate Transportation District and Marin Transit District)
- identify locations of directional signage
- plan for crowd control, location of portable restroom facilities and trash receptacles 02 [GEN-1]

3501 CIVIC CENTER DRIVE, ROOM 308 – SAN RAFAEL, CA 94903-4157 – 415-499-6269 – FAX 415-499-7880

We respectfully request that the County of Marin Department of Public Works shall be contacted, prior to the event, if any of the proposed mitigations are planned within County maintained road rights-of ways. 02 [GEN-1] cont.

In addition to our comments above, please refer to our comments included as Attachment #1 from Department of Public Works, which reflect impacts to the County not thoroughly addressed in the Draft EIR.

Land Use Plan Consistency, Marin Countywide Plan Consistency and Greenhouse Gas Emissions:

An overarching theme in the Draft EIR that we would like to see addressed in the Final EIR Response to Comments is how the plans are consistent with the Marin Countywide Plan goals of Greenhouse Gas emission reduction targets, among others. The EIR should discuss the Marin Countywide Plan policies in the Atmosphere and Climate topic under the Natural Systems and Agricultural element that pertain to Greenhouse Gas emission reduction targets and goals, and evaluate how this project will temporarily and/or ultimately affect the Greenhouse Gas emissions projections before and during the America's Cup Races. 03 [GG-1]

The Draft EIR explains that the EIR is not being used to satisfy the National Environmental Policy Act (NEPA) requirements although the project will affect some federally owned land, and separate NEPA documents will be prepared by the affected federal agencies. But, the EIR does not clearly explain why a joint EIR-EIS document under the California Environmental Quality Act (CEQA) section 15222 was not prepared. We would like to see this addressed in the Final EIR Response to Comments, as joint documents are encouraged as a time and resource efficiency under both NEPA and CEQA. 04 [INT-2]

Biological Impacts:

Will there be adverse effects on shoreline habitat due to additional boating activity by competitors, support teams and/or spectators? The Draft EIR contains a map (Figure 5.14-7) which projects authorized mooring areas around the bay where boats will be allowed to make berth, and also shows the respective range of eel grass habitat on the Bay. However, it remains unclear as to what kind of enforcement will be enacted in order to keep boats from berthing in the protected eel grass habitat areas? Will the Coast Guard be responsible for enforcement of the protected eel grass areas. The EIR should discuss the relevant goals and policies in the Biological Resources topic under the Natural Systems and Agricultural Element of the Marin Countywide Plan. 05 [BIM-4a]

Noise Impacts:

From our previous comment letter on the Notice of Preparation, we would like to know if noise impacts will result from planned or spontaneous celebrations that occur following or before the races? Moreover, the Draft EIR discusses traffic noise but it doesn't include a discussion about how the traffic noise will affect Marin County. Again, if necessary, refer to the Marin Countywide Plan Noise Element for guidance on how the project can comply with the Marin Countywide Plan goals. 06 [NO-5]

Public Services- Environmental Health:

We propose the following two corrections, both on pages 5.12-9:

Second paragraph, first sentence: "Bay Cities Refuse Service collects residential and commercial garbage, recycling, and yard waste from the City of Sausalito." Two sentences later, it states that, "Collected refuse is sent to the Redwood Sanitary Landfill and Recycling Center." This information above should be corrected to reflect the following: Bay Cities Refuse Service takes collected refuse to the Golden Bear Transfer Station in Richmond. Beyond that, the refuse is taken to a permitted landfill in Contra Costa County for disposal. 07 [UT-1]

Last paragraph, second sentence (regarding Angel Island): "Solid waste is collected in a garbage packer on the island and transported via boat to Redwood Landfill, described above." Bay Cities collects refuse from Angel Island and trucks it to the aforementioned Golden Bear Transfer Station in Richmond.

In addition, the Draft EIR states more than once that the number of people accessing Angel Island will be controlled by the number of ferries providing service to the island. However, isn't it possible for private boats to moor there as well?

Public Services- Marin County Sheriff's Office/ Emergency Services:

Table 5.13-2 purports to list all of the law enforcement agencies within the Project Area. The Marin County Sheriff's Office maintains law enforcement jurisdiction for all the unincorporated shoreline and waterways within Marin territorial waters, yet Marin County Sheriff's Office was not among the jurisdictions listed in that particular Table.

Emergency Medical Services for Visitors on Boats (Page 5.13-17) lists marine assets operated by the USCG, SFFD, and SFPD Marine Unit, but does not list the marine assets operated by the Marin County Sheriff's Office that would also likely be called into service were a medical emergency to occur in Marin County territorial waters. In addition, marine assets operated by the Sausalito Police Department, Southern Marin Fire Protection District and the Tiburon Fire Protection District would also likely be activated should a series of waterborne medical emergencies occur. None of those agencies are referenced in the Draft EIR either, which we would like to see included in the Final EIR Response to Comments. 08 [PS-1, PS-2, PS-5]

Fire Protection Services for Visitors on Boats (Page 5.13-19) again lists marine assets operated by the USCG and SFFD. It does not recognize the fire suppression capacity carried by the marine assets operated by the Marin County Sheriff's Office, Southern Marin Fire Protection District or the Tiburon Fire Protection District. Further, the Final EIR Response to Comments should include a discussion of how this project will be consistent with the goals and policies discussed in the Marin Countywide Plan Socioeconomic Element: 4.6 Public Safety, Natural Systems and Agricultural Element: Environmental Hazards (2.6), and the Built Environment Element: Public Facilities and Services.

We believe a coordinated Marin Operational Area (OA) response will be essential for an effective security presence during the 34th America's Cup event and we feel it will be important to identify an agency to coordinate OA plans and response readiness.

Marin Sheriff's Office of Emergency Services (OES) is usually the entity to conduct such OA coordination in an event. We would request extra hours (75 hrs) for OES planning staff and supplies ($750) to coordinate or establish:

- OA Law and Fire agencies for effective coverage and a common understanding of each agency's goals and anticipated challenges.
- A Joint Information Center with the Bay Area and for the county, to ensure a common message to the public and to keep first responders informed.
- Protocols for Marinas, Harbors & Yacht Clubs in a marine emergency or event.
- Pre-planned OES activations for specific events.
- Coordination with the Bay Area Region, Golden Gate Bridge District and the State.
- Coordination with local, State and National Parks.

Staffing:

For **Marine Patrol** extra staffing and equipment, we are suggesting:

- The ability to have a Sheriff's Marine Patrol presence of at least 1 (2 deputies) fully manned boat seven days a week July 4th, 2013 through September 1st, 2013. During certain races, 2 fully manned boats. In addition at least 1 fully manned boat (2 deputies) during all of the preliminary races beginning July 1st, 2012.
- Flex the 2nd boat team as needed from July 1st, 2012-July 1st, 2013 (preliminary regatta races in SF Bay, sporadically scheduled week to week throughout this time with 1-2 week breaks. Some race dates are still TBD).
- July 1st-8th, 2012 will be a big NCRIC week, due to the 75th Anniversary of the Golden Gate Bridge and the SF Bay regatta races beginning at the same time.
- If the need arises we would like to put at least two deputies on personal water craft (Jet skis) to assist with the expected marine traffic.

For **Regular patrol** extra staffing we are suggesting:

- 2-3 extra patrol cars (2 for East Marin and 1 for the West Marin coastal areas that could be flexed over to East Marin as necessary) July 1-Sept 28, 2013
- 2 extra patrol cars (1 for the interior Southern Marin area and 1 for the coastal areas that could be flexed over here as necessary) throughout the duration of the preliminary races starting July 1, 2012 through the end of the America's Cup race Sept 28, 2013.

08 [PS-1, PS-2, PS-5] cont.

Parks & Open Space:

Marin County Parks & Open Space manages several properties in Marin County that could be potentially affected by increased use from the 34th America's Cup Races. The Old St. Hillary's Open Space Preserve is on the southern end of the Tiburon peninsula and provides expansive views of almost the entire race course. The area would be adversely affected by large crowds using the preserve to view the race. This preserve contains listed federally endangered and threatened plant species and other plants of special concern that could be affected by increased use associated with the race.

The Ring Mountain Open Space Preserve is located on the north end of the Tiburon peninsula and provides some views of the race course. This preserve contains a federally and state listed

09 [BIU-4]

threatened plant species that is found nowhere else on earth (such as the Tiburon Mariposa Lily *Calochortus tiburonensis*), as well as other special status plant species, and any potential impact on these species is significant. In addition, Marin County Parks manages the Aramburu Island Preserve, a small island in Richardson Bay, and is currently working with Richardson Bay Audubon Center to restore native habitat on the island. This island may be an attractive destination for pre- and post- race event activities, such as hiking, camping, and picnicking. A significant increase in use could result in impacts to the newly restored habitat. Finally, Marin County Parks also manages two parks, McNear's Beach County Park and Paradise Beach County Park that are areas that may be attractive for race spectators to anchor boats when not viewing the race. A significant increase in use could adversely affect these facilities.

09 [BIU-4] cont.

The Draft EIR for the project recognizes potential impacts to recreational resource areas of special concern and recommends mitigation measures that will: 1) identify these areas; 2) provide crowd control; and 3) require post-event repairs. These five areas (Ring Mountain Open Space Preserve, Old St. Hillary's Open Space Preserve, Paradise Beach County Park, McNear's County Park, and Aramburu Island Preserve) should be identified as recreational areas of special concern and incorporated into the mitigation measures. In addition, we recommend revising these mitigation measures to include baseline, during race, and post-race monitoring to provide a verifiable mechanism to identify impacts to these important parks. Finally, we are concerned that the race may result in unanticipated impacts to other recreation areas and we recommend that the mitigation measures allow for these areas to be considered for post-event repairs if there are documented impacts.

10 [RE-7]

Richardson's Bay Regional Agency:

The Richardson's Bay Regional Agency (RBRA) will be submitting more detailed comments in a separate letter. The following is a summary of those comments, which are shared by Marin County.

The RBRA is concerned that some potential America's Cup Races impacts have not been addressed in the Draft EIR. A substantial influx of vessels will be visiting Richardson's Bay during for the America's Cup Races. Richardson's Bay is an ideal anchorage for boaters visiting the races, being in close proximity to the race course and sunny, flatwater, and wind and current protected. It is shown in the America's Cup Draft EIR as an anchorage area. It is reasonably foreseeable that several hundred additional vessels over current levels could be anchored in Richardson's Bay for the America's Cup Races.

No estimate has been provided in the Draft EIR of anticipated types, numbers, locations, and duration of vessels visiting and/or anchoring in Richardson's Bay in conjunction with the races. RBRA has the difficulty and uncertainty at this time of predicting the disposition and amount of America's Cup-related boater visitation. With an unknown but foreseeably large number of vessels, we are concerned that we'll be facing a variety of potential impacts.

11 [IO-3b]

Vessels occupied by boaters for any length of time generate sanitary waste. Sanitary waste and associated potential impacts in Richardson's Bay are unmentioned in the Draft EIR.

Richardson's Bay is a Federally-designated "no discharge zone", meaning that it is illegal to discharge effluent into its waters. Richardson's Bay is also currently under a Total Maximum

12 [HY-9c]

Daily Load (TMDL) plan imposed by the State Regional Water Quality Control Board to reduce water pollutant levels to the almost pristine standards. 12 [HY-9c] cont.

While Richardson's Bay features several pumpout stations at local docks and marinas, and an anchorage-oriented vessel pumpout, RBRA will need assistance in accommodating any major increase in vessels and their sanitary waste production. Current resources and programs for doing so will need to be substantially expanded. RBRA expect that the America's Cup Final EIR Response to Comments will recognize, fully plan for, and assist RBRA in accommodating the financial impacts of program expansions necessary to address these impacts. 13 [GEN-2]

Richardson's Bay contains large areas of eelgrass. Eelgrass is important for sediment deposition, substrate stabilization, as substrate for epiphytic algae and micro-invertebrates, and as nursery grounds for many species of economically important fish and shellfish, including herring spawning grounds.

The anchor chains of vessels in shallower water areas of Richardson's Bay have created documented "crop circle" impacts within eelgrass beds by vessels' anchor chains. A large influx of additional vessels visiting for the America's Cup races and dropping anchor in Richardson's Bay could substantially increase the numbers and impacts of "crop-circles", to the detriment of eelgrass areas. 14 [BIM-4a]

Managing the more environmentally sensitive areas of Richardson's Bay, including its eelgrass beds, during the America's Cup Races period will require a substantial increase in RBRA resources, including increased water patrols. Currently RBRA does not have a budget that will accommodate additional America's Cup Races-related expenses. The cost of expenses which RBRA does not expect to be recoverable from boaters themselves is estimated at $124,000. This figure is represents a substantial portion of RBRA's total annual budget, and RBRA will need financial assistance. Provided that America's Cup Races project sponsors are forthcoming with expense coverage, RBRA looks forward to doing its part to help ensure a successful, world-class America's Cup. 15 [GEN-2]

Figure 4: Proposed Sailing Race Area:

An accurate, stable, and finite project description is an essential element of an informative and legally sufficient EIR under CEQA (*County of Inyo v. City of Los Angeles*, [1981] 124 Cal.App.3d 1). Accordingly, it would be helpful if the America's Cup Final EIR furnished enough information to demonstrate that potential project impacts have been thoroughly considered and addressed to the extent that can be reasonably expected (refer to CEQA Guideline Section 15144). 16 [PD-1, PD-4]

Although the proposed raceway has changed between the publishing of the Notice of Preparation and the Draft EIR, another raceway map has subsequently emerged that shows a different raceway course than what was included the Draft EIR (see Attachment #2). In order to accurately gauge the impacts of this project on Marin County, we must know if the raceway map included in the Draft EIR is the correct raceway or if it's going to change again. To allow for a better understanding of the project, it is essential to clarify the final raceway maps within the project description, so as to allow for a thorough examination and evaluation of the impacts of this project on Marin County.

Thank you again for the opportunity to comment. We are hopeful that our input will assist in clarifying the areas of the Draft EIR that warrant further clarification and improvement, and we look forward to seeing these changes reflected in the Final EIR Response to Comments. If you have any questions or would like to discuss this matter further, please contact me at this office.

Sincerely,

Rachel Warner
Interim Environmental Coordinator

cc: Kathrin Sears, Board of Supervisors
Brian C. Crawford, Director, CDA
Tom Lai, Planning Director, CDA
James Raives, Planner, Parks & Open Space
Craig Tackaberry, Assistant Director, DPW
Bill Price, RBRA Harbor Administrator, CDA
Ben Berto, Principal Planner, RBRA Clerk

Attachments: 1. Additional Comments from Marin County Department of Public Works
2. Raceway Map as presumably being used by the U.S. Coast Guard

Attachment #1- County of Marin Letter on AC-34 DEIR

INTER-OFFICE MEMORANDUM

DEPARTMENT OF PUBLIC WORKS

Date: July 14, 2011

To: DPW Engineering Land Development
c/o Berenice Davidson

From: John Neville

SUBJECT: Traffic Review for Notice of Draft Environmental Impact Report

DPW Traffic Division has reviewed the above listed submittal our comments for revision are as follows:

Figure 1-1 should be revised to show the Marin-San Francisco County line. 17 [PD-3]

The primary egress for Sausalito is on the north end of town. The level of service evaluation should include the intersections N. Bridge Blvd. @ Bridgeway and the intersection of southbound 101 offramp @ N. Bridge Blvd. Delays on the S/B 101 may result in back-ups onto the Highway 101. 18 [TR-2c]

F:\Traffic\Traffic Operations\Projects\America's Cup\Memo to Land Dev7_13_11 doc

America's Cup Project Sites
Live Sites
Race Area
Spectator Boat Areas

SOURCE: Google Maps, ESA

Case No. 2010.0493E AC34 / Cruise Terminal and Northeast Wharf Plaza (210317)

Figure 1-1
AC34 Venue Location Map and Sailing Race Area

17 [PD-3] cont.

Alexander Avenue is a two-lane arterial roadway in Marin County located between U.S. 101 and Sausalito. Alexander Avenue provides access to Fort Baker via Bunker Road/Danes Drive and East Road. Because it is an approach road to the Golden Gate Bridge, Alexander Avenue is under the joint jurisdiction of the Golden Gate National Recreation Area (GGNRA), the California State Department of Transportation (Caltrans), and the Golden Gate Bridge Highway and Transportation District (GGBHTD).

East Road is a two-lane, two-way north-south roadway in Marin County that runs between Alexander Avenue and the Fort Baker parade ground, which is under the jurisdiction and control of the National Park Service (NPS).

Bunker Road is a two-lane road in Marin County under the jurisdiction and control of the NPS connecting the Marin Headlands to the north with Fort Baker to the south. Access to the Marin Headlands is through the one-lane Barry-Baker tunnel between Fort Baker and the Fort Barry area. Motor vehicle travel through the tunnel alternates between eastbound and westbound traffic and is controlled by traffic signals on each end of the tunnel. Four-foot-wide, striped Class II bicycle lanes are provided for several hundred feet on both sides of the tunnel.

Sausalito is located in Marin County adjacent to the San Francisco Bay, approximately three miles north of the Golden Gate. Access to Sausalito is available from U.S. 101 via Alexander Avenue to the south and Bridgeway to the north. Most of the streets in Sausalito are classified as local streets, except for Bridgeway north of Napa Street, a primary arterial street. Bridgeway from Napa Street south to Richardson Street and the continuation of the through traffic route via Richardson, Second and South Alexander Avenue are secondary arterial streets. The City's collector street system includes Harbor Drive, Marinship Way, Caledonia Street, Spencer Avenue and Monte Mar Drive.

Most traffic congestion in Sausalito is related to visitors and occurs mostly on weekends and in the downtown area, with relatively little traffic congestion in the rest of the City street system. Visitor trips to Sausalito range from a low of ten percent of total City trips on a Winter weekday to 37 percent of total City trips on a typical summer weekend day.[2] About 90 percent of visitors come to Sausalito by automobile, 6 percent by ferry, and 4 percent by other modes. The heavy reliance by visitors on the automobile as the primary mode of access to Sausalito results in traffic and parking congestion in the downtown area on peak season weekend days.

18
[TR-2c] cont.

The Town of Tiburon is located in a peninsula approximately 10 miles north of San Francisco, in Marin County. It is accessible by ferry from downtown San Francisco, as well as by automobile from U.S. 101 and State Highway 131 (SR 131). SR 131 is a four-lane highway locally known as Tiburon Boulevard that begins at U.S. 101, running northwest-southeast, and serving as the primary access for Tiburon. Tiburon Boulevard becomes a two-lane road and eventually turns into Paradise Drive east of Main Street in downtown. SR 131 from U.S. 101 to Main Street is in the CMP network, as designated by the Transportation Authority of Marin. Paradise Drive runs

[2] *Sausalito General Plan, Circulation Element*, City of Sausalito, including amendments through October 1999.

19
[PD-4]

PORT OF OAKLAND

August 24, 2011

Bill Wycko
Environmental Review Officer
San Francisco Planning Department
1650 Mission Street, Suite 400
San Francisco, CA 94103

Re: Comments on America's Cup Environmental Impact Report (EIR)

Dear Mr. Wycko,

Thank you for the opportunity to comment on the Draft Environmental Impact Report ("DEIR") for the 34th America's Cup Races Project. The Port of Oakland ("Port") is aware that the project will bring major economic and tourism benefits to the Bay Area and appreciates the major analytical effort represented by the DEIR. After reviewing the DEIR, however, some concerns about issues we raised in our response to the Notice of Preparation remain.

The planned Race Area is located directly within the traffic lane used by vessels that call at the Port. Understandably, our primary areas of concern are 1) the disruption of access to shipping channels for container vessels entering and exiting the Bay, and 2) disruption of access to dredge material disposal areas for barges containing maintenance dredge materials. While the Land Use Section (5.2.1.2 - Existing Water Uses in the Central San Francisco Bay) acknowledges established traffic lanes and dredge material disposal areas, Section 5.2.2, Impacts and Mitigation Measures fail to analyze potential impacts or identify mitigation measures for the above areas of concern. As we stated in our previous letter, container shipping activity on San Francisco Bay occurs 24 hours a day, 7 days a week. 1,973 vessels called at the Port in 2010 and the average vessel call duration is about 20 hours from a vessel's arrival at the dock to its departure. Delays in vessel arrivals and departures could lead to greater costs for cargo transportation, increased air emissions, and the potential for vessel traffic

01 [LU-2, PD-4, PD-7]

530 Water Street ■ Jack London Square ■ P.O. Box 2064 ■ Oakland, California 94604-2064
Telephone: (510) 627-1100 ■ Facsimile: (510) 627-1826 ■ Web Page: www.portofoakland.com

COM-86

congestion in the Bay. Delays to vessels could result in shipping lines bypassing Oakland altogether, causing loss of revenue and, potentially, jobs. In addition, because maintenance dredging is critical to the maintenance of safe and navigable waters for deep draft vessels, the Port is concerned about restrictions on movement of dredging disposal tugs and barges during the Port's limited dredging season (August 1-November 30). Such restrictions could result in the need for additional equipment, at an added cost, or could require an extension of maintenance dredging outside the dredging window, which could potentially result in impacts to listed species (steelhead trout and California least tern) or the sensitive Pacific herring spawning fishery.

01 [LU-2, PD-4, PD-7] cont.

The Port acknowledges that the DEIR proposes a number of Implementation Plans to support the race events in 2012 and 2013. The yet-to-be-developed Water and Air Traffic Plan would supposedly address coordination issues with vessels used for cargo transportation and maintenance dredging. However, the Water and Air Traffic Plan is not available for review at this time. The vessel navigation impacts and mitigation, if necessary, should be addressed in the DEIR.

I look forward to continued collaboration with the City and County of San Francisco throughout the environmental review and entitlement process. Please do not hesitate to contact me at 510-627-1182 or Anne Whittington, Environmental Assessment Supervisor at 510-627-1559, to discuss the issues raised in this letter.

Sincerely,

Richard Sinkoff
Director, Environmental Programs and Planning Division

cc: Anne M. Whittington
Chris Peterson, Chief Wharfinger
Joshua Safran, Deputy Port Attorney

RICHARDSON'S BAY REGIONAL AGENCY

Bill Wycko
San Francisco Planning Department
1650 Mission Street, Ste. 400
San Francisco, CA 94103

August 19, 2011

Subject: The 34th America's Cup Races James Herman Cruise Terminal and Northeast Wharf Project Draft EIR

Dear. Mr. Wycko:

I am submitting these comments on the Draft EIR for the for the 34th America's Cup on behalf of the Richardson's Bay Regional Agency (RBRA). The RBRA is a joint powers agency comprised of the County of Marin and the Cities/Towns of Tiburon, Sausalito, Mill Valley, and Belvedere, and is responsible for implementing the Special Area Plan for Richardson's' Bay.

RBRA is excited that the City of San Francisco will be hosting the 34th America's Cup (AC34), and looks forward to our involvement with the event. However, AC34 will pose numerous challenges for those involved. Some issues have not been addressed in the DEIR.

RBRA is commenting to assist event organizers and the City of San Francisco in working with the RBRA in clarifying, managing, and reducing potential issues and impacts to manageable levels. To this end, RBRA has identified the following potential concerns (and possible solutions where appropriate): 01 [GEN-1]

1) A substantial influx of vessels will be visiting Richardson's Bay for a portion or all of AC34. Richardson's Bay is a designated federal anchorage, reflecting its 160+ year history as an active flatwater, wind- and current-sheltered, sunny anchorage for visiting boaters. It is even shown in an AC34 DEIR diagram as an anchorage area.

The DEIR in Table 5.1-2 refers to up to 2,280 spectator boats in the Central Bay on AC34 race days. However the DEIR's estimates range by almost 300 percent, reflecting the difficulty and uncertainty at this time of predicting the disposition and amount of AC34-related boater visitation. 02 [IO-3b]

No estimate has been provided in the DEIR of anticipated types, numbers, locations, and duration of vessels visiting and/or anchoring in Richardson's Bay in conjunction with AC34. Absent any such estimates, it is very difficult to anticipate what the accompanying impacts of such vessels might be. Could there be 50-500 additional vessels at anchor in Richardson's Bay during the time of the AC34 races? With

Marin County Community Development Agency, 3501 Civic Center Dr. Room 308, San Rafael, CA 94903
Office 415/289-4143 Cell 415/971-3919 bprice@co.marin.ca.us

Richardson's Bay's attributes as an ideal anchorage in close proximity to the race course, and the impressive international scale of AC34, it seems reasonably foreseeable that up to several hundred additional vessels over current levels could be anchored in Richardson's Bay for AC34. 02 [IO-3b] cont.

2) With this influx of an unknown but foreseeably large number of vessels comes a variety of potential impacts. One of these is vessels occupied by boaters for any length of time generate sanitary waste. This issue, and the impacts potentially accompanying it, are unmentioned in the DEIR.

Richardson's Bay is a Federally-designated "no discharge zone", meaning that it is illegal to discharge effluent into its waters. Richardson's Bay is also currently under a Total Maximum Daily Load (TMDL) plan imposed by the State Regional Water Quality Control Board. The purpose of the TMDL is to reduce current water pollutants exceedances to pollutant levels deemed acceptable for shellfish consumption, an almost pristine water quality standard. Richardson's Bay has pumpout stations at several local docks and marinas, and an anchorage-oriented vessel pumpout program ("MT Head") under the auspices of RBRA that currently serves approximately 250-300 vessels. 03 [HY-9c]

RBRA will need assistance in accommodating any major increase in vessels and their sanitary waste production. Current resources and programs for doing so will need to be substantially expanded.

DEIR Section 1.4 Areas of Controversy and Issues to be Resolved specifically lists one of these issues as:

> *Impacts of the AC34 events on views, traffic, services, utilities, recreational resources, and public access at proposed venue locations as well as at adjacent and nearby areas.*

DEIR Section 1.4 also states:

> *Issues to be resolved include those areas of concern that will be addressed either (1) during the permitting and approval processes for the projects subsequent to the completion of the CEQA process, (2) as part of the environmental review requirements under the National Environmental Policy Act (NEPA) for the applicable aspects of the project, (3) during design and implementation of the projects (assuming the projects are approved), or (4) as part of future proposals for long-term development on Port properties as provided for under the Host Agreement and the associated environmental review process.* 04 [GEN-2]

DEIR Section 1.4 acknowledges that potential impacts to services associated with the project exist but are neither identified nor mitigated. RBRA is detailing potential

Marin County Community Development Agency, 3501 Civic Center Dr. Room 308, San Rafael, CA 94903
Office 415/289-4143 Cell 415/971-3919 bprice@co.marin.ca.us

impacts, and suggesting mitigations. RBRA expects that the AC34 FEIR will recognize, fully plan for, and assist RBRA in accommodating the financial impacts of program expansions necessary to address these impacts. 04 [GEN-2] cont.

3) A substantial portion of Richardson's Bay is comprised of thriving eelgrass habitat. Eelgrass areas are important for sediment deposition, for substrate stabilization, as substrate for epiphytic algae and micro-invertebrates, and as nursery grounds for many species of economically important fish and shellfish, including (in Richardson's Bay) herring spawning grounds.

Aerial photographs document the "crop circle" impacts created in eelgrass beds by vessels' anchor chains. While certain levels of existing "crop-circling" can be expected now and in the future (including during the AC34 period) from ongoing numbers of anchored vessels, a large influx of additional vessels visiting for AC34 and dropping anchor in Richardson's Bay could substantially increase the numbers and impacts of "crop-circles", to the detriment of eelgrass areas. 05 [BIM-4a]

RBRA believes it can, with careful, active oversight and management during the AC34 period, mitigate potential impacts to Richardson's Bay eelgrass beds to less than significant levels. Doing so will require a substantial increase in the level of regulatory involvement in designating and enforcing temporary anchorage areas and areas where anchoring vessels will be discouraged/prohibited from anchoring. Currently RBRA lacks an on-the-water presence for 3 days/week, personnel being fully committed to other activities. It can be reasonably foreseen that vessels will be coming into and out of Richardson's Bay every day of the week during (and immediately before and after) the AC34 racing period. Efforts directing boater anchorage areas will have to take place at many levels, but include a seven-day-a-week water patrol to ensure that requirements are communicated and enforced.

RBRA will be participating and cooperating with other agencies, including the Marin County Sheriff's Department, Sausalito Police Department, and the US Coast Guard, in its management and enforcement efforts during the AC34 period. Discussions are already taking place in that regards. However, even if the US Coast Guard were interested in asserting more regulatory authority, recent history has demonstrated that they do not have shallow water operational capability. There is a good chance that they would or could not go into shallower areas where vessels would be causing problems (for example, to eelgrass beds). 06 [GEN-2]

A substantial increase in the number of vessels in Richardson's Bay will demand prompt, thorough regulatory and enforcement services. Currently RBRA does not have a budget that will accommodate enhanced water patrol and court costs. If RBRA is to regulate boaters in regards to waste disposal and anchoring locations, it will need to have additional enforcement capability backed by court action if necessary. For example, abatement of one vessel can easily incur expenses in the tens of thousands of dollars.

RBRA calculates that the following approximate additional AC34-attributable expenses are likely during the AC34 event period:

Marin County Community Development Agency, 3501 Civic Center Dr. Room 308, San Rafael, CA 94903
Office 415/289-4143 Cell 415/971-3919 bprice@co.marin.ca.us

2 person patrol x 8 hours/day x 3 days/week	
x 12 weeks x $100 hour/person	$57,600
Patrol boat: $400/day x 3 days/week x 12 weeks	$14,400
Enforcement/legal	$50,000
Total	$124,000

The total annual level of contributions from local jurisdictions to the RBRA approximates the above AC34 expense figure - addressing AC34 financial costs will come close to doubling local expenses. RBRA has scant opportunity to recover costs from the boaters, with one exception: the direct expense of the additional pumpout services could be structured into the fees charged to boaters for those services. Assuming RBRA's enhanced management and regulatory capabilities are supported and developed, pumpout costs could be recovered from boaters and therefore are not listed as an additional (unreimbursed) expense. The $124,000 figure above represents additional expenses for which RBRA will need financial assistance. 06 [GEN-2] cont.

It should be noted that the RBRA is focused on potential waterside effects associated with increased AC34-related boater visitation. However, if the course boundaries listed in DEIR Figure 1-1 continue as the official course area outline, a major influx of spectators can be anticipated on proximate Marin landside viewing areas (for example, Marin headlands). Marin headlands is identified as a "secondary viewing area" in the DEIR, in which Table 5.1-1 anticipates that up to 3,500 spectators might use this informal viewing area. Given the stature of and likely interest in the race, there could be many more spectators in this area. Staff is aware of plans in progress to tighten up the race course area to a long rectangle oriented much closer to San Francisco city side of the Bay than Figure 1-1. Such a course reduction would reduce the potential number of spectators (and associated impacts) on the Marin landside. RBRA leaves it to other jurisdictions and agencies to comment on issues associated with landside visitors. 07 [PD-4]

RBRA looks forward to ongoing discussions and cooperation with AC34 organizers and sponsors as we move ahead with this project and closer to 2013. Provided that the Final EIR responds to and mitigates impacts identified in this letter, and AC34 organizers and project sponsors coordinate with and support RBRA in this regard, we look forward to successfully doing our part to help host a world-class AC34 on San Francisco Bay.

Sincerely,

Ben Berto
RBRA Clerk

Bill Price
RBRA Harbor Administrator

CC: RBRA Board

Marin County Community Development Agency, 3501 Civic Center Dr. Room 308, San Rafael, CA 94903
Office 415/289-4143 Cell 415/971-3919 bprice@co.marin.ca.us

CITY OF SAUSALITO

420 Litho Street
Telephone

August 25, 2011

San Francisco Planning Department
Attn: Bill Wycko, Environmental Review Officer
1650 Mission Street, Suite 400
San Francisco, CA 94103

RE: Comments on Draft Environmental Impact Report for the America's Cup

Dear Mr. Wycko:

Thank you for the opportunity to provide comments on the Draft Environmental Impact Report (EIR) prepared for the 34th America's Cup Races and James R. Herman Cruise Terminal and Northeast Wharf Plaza (referred to herein as "Project"), as well as responding to many of the issues the City of Sausalito (herein referred to as Sausalito) raised during the Notice of Preparation (NOP) and scoping process prior to the completion of the subject Draft EIR. The City of Sausalito appreciates the City of San Francisco's efforts in preparing the Draft EIR in a short amount of time and including Sausalito in much of the existing setting descriptions related to various chapters within the Draft EIR.

Sausalito has reviewed the Draft EIR and identified a variety of concerns regarding the project's impacts. Specially, of the 250 project impacts identified by the Draft EIR, Sausalito has identified it will be affected by 35 impacts as referenced below and discussed throughout this letter:

- ✓ Section 5.2 Land Use (2 impacts)
- ✓ Section 5.3 Aesthetics (3 impacts)
- ✓ Section 5.6 Transportation and Circulation (20 impacts)
- ✓ Section 5-11 Recreation (1 impact)
- ✓ Section 5.13 Public Services (2 impacts)
- ✓ Section 5.14 Biological Resources- Marine Resources (6 impacts)
- ✓ Section 5.16 Hydrology and Water Quality (1 impact)

01 [GEN-3]

The overarching theme of the Sausalito's concerns are the Draft EIR's reliance on future implementation plans (i.e., People Plan, Water and Air Traffic Plan, Public Safety Plan, Waste Management Plan, and Parks Event Operations Plan) to mitigate identified impacts. As such, Sausalito's comments are formatted to request modification to mitigation measures to ensure the project will not have an adverse impact on Sausalito's environment.

02 [IO-4c]

Land Use Impacts:

✓ *Impact LU-2: Construction and operation of the America's Cup facilities and events would not conflict with any applicable land use plan, policy, or regulation of an agency with jurisdiction over the project (including but not limited to the general plan, specific plan, local coastal program, or zoning ordinance) adopted for the purpose of avoiding or mitigating an environmental effect.*

03 [LU-6, BIM-2a]

✓ *Impact LU-3: Construction and operation of the America's Cup facilities and events would not have a substantial adverse effect on the existing character of the project sites and vicinities.*

Sausalito's General Plan was not adequately considered when preparing the Biological Resources-Marine Resources section of the Draft EIR. While the Draft EIR does reference the Sausalito General Plan for Solid Waste, Traffic, and Special Events, the Draft EIR does not consider the various Objectives, Policies, and Programs addressed in Sausalito's Environmental Quality Element. Specifically, there are many Policies which speak to the marine environment along the Sausalito shoreline and Richardson's Bay. The Final EIR should analyze Sausalito's Environmental Quality Element and modify the recommended mitigation measures to ensure the impacts identified in the Biological Resources-Marine Resources section are addressed.

The America's Cup races may have an adverse impact on Sausalito's shoreline character. As referenced in Section 5.3 on page 17, the Draft EIR states the race area would be closest to the Sausalito waterfront. Additionally, in Section 5.2 on page 19, the Draft EIR states "due to the location of the spectator fleet, views of the race from Sausalito… may be impaired." Sausalito is a world renowned tourist destination and is known for its panoramic views of the San Francisco Bay. The Final EIR should analyze the extent of the impairment and develop mitigation measures to reduce the impacts of the spectator boats to allow open vantage points from the race area as viewed from the Sausalito's southern shoreline from the downtown to the southernmost city limits.

03 [LU-6, BIM-2a] cont.

Aesthetics Impacts

✓ *Impact AE-2: Construction and operation of the America's Cup facilities and events would not affect scenic resources (vistas, roadways, and designated scenic areas) or the visual character of the project sites and surroundings.*

✓ *Impact AE-3: Construction and operation of the America's Cup facilities and events would not substantially damage scenic resources or other features of the built environment that contribute to a scenic public setting.*

✓ *Impact AE-4: Construction and operation of the America's Cup facilities and events would not create a new source of substantial light or glare that would adversely affect daytime or nighttime views in the area.*

The impacts associated with AE-2 and AE-3 are similar to the impacts associated with LU-3, therefore the Final EIR should analyze the impacts and implement mitigation accordingly.

The Draft EIR does not analyze the light, glare, and view impacts associated with the spectator fleet and designated anchorages that would adversely affect daytime and nighttime views in the area. The Final EIR should include an analysis of the potential glare and nighttime lighting impacts associated with the spectator fleet and designated anchorages. The Final EIR should also analyze the impacts of mega yachts anchoring within Sausalito's southern shoreline and identify a mitigation measure that would prohibit large yachts from anchoring within the Sausalito shoreline or Richardson's Bay unless permitted by Sausalito and the Richardson's Bay Regional Agency. Furthermore, the Final EIR should analyze obstructed view impacts of

04 [AE-5]

the bay from Sausalito resulting from mega yachts (i.e., yachts that are 80 feet or longer) anchoring within the designated spectator fleet location. Lastly, the Final EIR's description and analysis should include, but not limited the length of time the boats will be anchored, how the anchorages will be managed and enforced, and the maximum amount of boats to be anchored within the spectator fleet and designated anchorages. Additionally, the Final EIR should provide an analysis of any potential effects of day-time glare associated with the spectator fleet, day-time view impacts, in addition to the nighttime lighting issues associated with boats in the anchorages adjacent to the Sausalito shoreline. **04** [AE-5] cont.

Transportation and Circulation Impacts

- ✓ *Impact TR-16: Implementation of the AC34 2012 events would result in significant impacts on traffic operations at secondary viewing areas outside of San Francisco.*
- ✓ *Impact TR-22: Implementation of the AC34 2012 events would exceed the available transit capacity of Golden Gate Transit bus and ferry lines.*
- ✓ *Impact TR-23: Implementation of the AC34 2012 events would exceed the available transit capacity of Blue & Gold ferry lines.*
- ✓ *Impact TR-26: Implementation of the AC34 2012 events would have a potentially significant impact on transit operations related to additional congestion resulting from the project.*
- ✓ *Impact TR-27: Implementation of the AC34 2012 events would disrupt regular scheduled ferry operations.*
- ✓ *Impact TR-28: Implementation of the AC34 2012 events would have less than significant impacts on transit operations at secondary viewing areas.*
- ✓ *Impact TR-30: Implementation of the AC34 2012 events would not create potentially hazardous conditions for bicyclists or otherwise substantially interfere with bicycle accessibility at secondary viewing areas.*
- ✓ *Impact TR-32: Implementation of the AC34 2012 events would not result in substantial overcrowding on public sidewalks, create hazardous conditions for pedestrians, or otherwise interfere with pedestrian accessibility at secondary viewing areas and Vicinity.*
- ✓ *Impact TR-34: Implementation of the AC34 2012 events would not result in a significant emergency vehicle access impact.*
- ✓ *Impact TR-37: The AC34 2012 events would result in potentially significant impacts to the transportation network in combination with other special events occurring simultaneously in San Francisco.*
- ✓ *Impact TR-59: Implementation of the AC34 2013 events would result in significant impacts on traffic operations at secondary viewing areas outside of San Francisco.*

05 [TR-2c]

- ✓ *Impact TR-65: Implementation of the AC34 2013 events would exceed the available transit capacity of Golden Gate Transit bus and ferry lines.*
- ✓ *Impact TR-66: Implementation of the AC34 2013 events would exceed the available transit capacity of Blue & Gold ferry lines.*
- ✓ *Impact TR-70: Implementation of the AC34 2013 events would disrupt regular ferry operations.*
- ✓ *Impact TR-71: Implementation of the AC34 2013 events would have less than significant impacts on transit operations at secondary viewing areas.*
- ✓ *Impact TR-73: Implementation of the AC34 2013 events would not create potentially hazardous conditions for bicyclists or otherwise substantially interfere with bicycle accessibility at secondary viewing areas.*
- ✓ *Impact TR-75: Implementation of the AC34 2013 events would not result in substantial overcrowding on public sidewalks, create hazardous conditions for pedestrians, or otherwise interfere with pedestrian accessibility at secondary viewing areas.*
- ✓ *Impact TR-77: Implementation of the AC34 2013 events would not result in a significant emergency vehicle access impact.*
- ✓ *Impact TR-79: The AC34 2013 events would not result in significant transportation impacts in combination with ongoing and upcoming construction projects in the City and its vicinity*
- ✓ *Impact C-TR-10: The proposed project's contribution to cumulative transit trips on AC Transit, BART, Caltrain, Golden Gate Transit, SamTrans, and other ferry lines would not contribute considerably to the capacity utilization at the regional screenlines during the weekday a.m. and p.m. peak hours.*

Sausalito has identified 20 Transportation and Circulation impacts (as shown above) addressed in the Draft EIR which will directly affect Sausalito as summarized in the proceeding paragraphs. Sausalito has many automobile and bicycle congestion points beginning at the Alexander Avenue exit on Highway 101 and terminating past Sausalito's downtown at the intersections of Bridgeway and Napa Street. Examples of congestion points related to automobiles and bicycles can be found along Alexander Avenue (starting at Highway 101 to Sausalito city limits), South Street, Second Street, Richardson Street, and Bridgeway from Richardson Street to Napa Street. Although mitigation measures have been developed to reduce these impacts, the mitigation measures rely on a separate plan termed, the People Plan. The draft People Plan, as currently written, does not include traffic related impacts or implementation measures associated with the significant and unavoidable impacts related to Sausalito, as addressed in the Draft EIR. Therefore, Mitigation Measure M-TR-1 should be modified to include impacts and implementation measures related to Sausalito and that Sausalito will be given an opportunity to comment on the People Plan prior to final adoption. Sausalito is also requesting the City of San Francisco and the project sponsors enter into a Memorandum of Understanding to ensure Sausalito's concerns are adequately addressed in the People Plan. **05** [TR-2c] cont.

Additionally, the Draft EIR does not adequately address the amount of visitors who come to Sausalito via bicycles. Although the Draft EIR references that visitors come to Sausalito via private vehicles and bicycles, and sometimes as pedestrians, the Draft EIR identifies that visitors come to Sausalito primarily in automobiles (the Draft EIR references to the Sausalito 1995 General Plan and 1999 General Plan amendments). Table 5.6-12B also supports that rational by stating that 100% of visitors traveling to the North Bay to view the races outside of San Francisco will come via their automobiles. However, over the past few years, Sausalito has experienced an increase in visitors who travel to Sausalito on bicycles. For example, during the summer months, Sausalito estimates approximately 1,000 weekday bicycle trips and over 3,000 peak weekend bicycle trips per day. Once reaching Sausalito, many bicyclists ride either the Golden Gate Ferry or the Blue and Gold Ferry back to San Francisco. Note, it is not uncommon for the ferries to reach bicycle capacity and strand bicyclists in Sausalito to find other modes of transportation back to San Francisco. **06** [TR-8a]

As such, Sausalito has identified a conflict between TR-65 and TR-73 related to bicyclists using ferry services. As such, the Final EIR should analyze the impacts of bicycles travelling to Sausalito, the impacts of bicycle parking in Sausalito, impacts of bicycle cueing for the various ferries in Sausalito, and the impacts of the ferries' capacities to handle the ferry riders with bicycles from Sausalito to San Francisco, and mitigate the aforementioned impacts accordingly. The People Plan should also include an implementation measure that will require to San Francisco bicycle vendors to ensure all bikes that are unable to get on the ferry and are left in Sausalito are picked up nightly in a location agreed upon by Sausalito.

Additionally, the Final EIR should analyze the safety impacts associated with bicyclists and pedestrians travelling the "Sausalito Lateral" which runs along Alexander Avenue from Highway 101 to the Sausalito city limits. The City of San Francisco and the project sponsors should work with the National Park Service and/or the Golden Gate Bridge Highway and Transportation District to install a designated bike lane to ensure the safety of bicyclists and pedestrians along the Sausalito Lateral. Photographs are enclosed to illustrate use of the roadway by bicyclists. Furthermore, the Final EIR should also analyze the impacts of automobiles and bicyclists stopping along the Sausalito Lateral and the Sausalito southern shoreline (Bridgeway from Richardson Street to Princess Street) to view the America's Cup races and develop an implementation measure to be incorporated into the People Plan to reduce the impacts accordingly. **07** [TR-8a]

Another impact the Final EIR should analyze is the construction timing of the Golden Gate Bridge Highway and Transportation District ferry terminal reconstruction project within Sausalito and the potential impacts on the America's Cup races.

The Draft EIR identifies that the America's Cup races will impact traffic operations in Sausalito during its annual three-day Art Festival event during Labor Day. The Sausalito Art Festival attracts approximately 34,000 people. The Draft EIR proposed mitigation again relies on the People Plan. Sausalito supports the reliance on the People Plan provided Sausalito Art Festival impacts are adequately addressed and implementation measures are developed to mitigate the impacts. **08** [TR-2g]

Recreation Impacts

✓ *Impact RE-1: The America's Cup facilities and events could increase the use of parks and recreational facilities such that substantial physical deterioration of the facilities could occur or otherwise result in physical degradation of existing recreational resources.*

The Draft EIR identifies Sausalito as a Secondary Viewing Area. Additionally, Figure 5.11-1 of the Draft EIR identifies four of the Sausalito's public recreational facilities. Furthermore, the Draft EIR states that Sausalito's shoreline parks could provide opportunities for viewing the race area. Although the Draft EIR states the City of San Francisco and the project sponsors will coordinate with Sausalito and implement performance standards (i.e., crowd control, post-event repair, recreational restroom facilities, and trash/recycling needs) to mitigate the impacts of the visitors in specified Secondary Viewing Areas, there is no specific enforcement measure to identified in the Draft EIR which requires the City of San Francisco or the project sponsor to ensure the impacts at the Secondary Viewing Areas in Sausalito are mitigated. Therefore, the Final EIR should modify Mitigation Measure M-RE-1 to require the City of San Francisco and the project sponsors to enter into a Memorandum of Understanding with Sausalito to ensure the mitigation measure is enforced and to what degree necessary (i.e., specify amount of volunteers who will manage the parks, location and quantity of portable restrooms, location and quality of refuse/recycling receptacles, refuse/recycling pick-up, etc). **09** [RE-7]

Public Services Impacts

✓ *Impact PS-3: Construction and operation of the America's Cup facilities and events would not result in substantial adverse physical impacts associated with the provision of or the need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times, or other performance objectives for law enforcement services.*

✓ *Impact C-PS: The project, in combination with other past, present, and reasonably foreseeable future projects, would not result in significant adverse cumulative impacts on public services.* **10** [PS-3]

Tables 3-4 through 3-6 of the Draft EIR identify that Sausalito's visitor population will increase with the America's Cup races in both 2012 and 2013, however, the analysis in Section 5.13 of the Draft EIR does not address the Public Services Impacts on Sausalito as a result of the Project. The Final EIR should analyze the impacts the Project will have on the City of Sausalito's Police Department and the Southern Marin Fire Protection District regarding staffing as a result of the projected increases in visitors to Sausalito.

Biological Resources- Marine Resources Impacts

✓ *Impact BI-11: The America's Cup facilities and events could have a substantial adverse effect, either directly or through habitat modifications, on marine or estuarine species identified as a candidate, sensitive, or special-status species in local or regional plans, policies, or regulations or by the California Department of Fish and Game, U.S. Fish and Wildlife Service, or National Marine Fisheries Service.* **11** [BIM-4a, BIM-7]

- ✓ *Impact BI-12: The America's Cup facilities and events could have a substantial adverse effect on sensitive marine or estuarine natural communities identified in local or regional plans, policies, or regulations.*
- ✓ Impact BI-13: The America's Cup facilities and events could have a substantial adverse effect on eelgrass beds, federally protected wetlands as defined by Section 404 of the Clean Water Act (including, but not limited to, marsh, vernal pool, coastal, etc.) through direct removal, filling, hydrological interruption, or other means.
- ✓ Impact BI-14: The America's Cup facilities and events could interfere with the movement of native marine or estuarine wildlife species or with established native resident or migratory wildlife corridors or impede the use of native wildlife nursery sites.
- ✓ Impact BI-15: The America's Cup facilities and events could conflict with applicable local policies or ordinances protecting marine or estuarine biological resources.
- ✓ Impact C-BIb: The project, in combination with other past, present, and reasonably foreseeable future projects, could result in significant adverse cumulative impacts on marine and estuarine biological resources.

As described in Sausalito's NOP comments, Richardson's Bay is a pristine estuary and supports *extensive* eelgrass areas, the Pacific Herring fisheries, in addition to sizable undisturbed intertidal habitats. Richardson's Bay is a feeding and resting area for estuarine and pelagic birds and supports a variety of animal and plant life. Accordingly, the Bay's waters are regulated and are subject to a "no discharge" rule to protect the elaborate and fragile ecosystems present, including a complex fishery, diverse mollusk populations and even marine mammals such as the harbor seal. **11** [BIM-4a, BIM-7] cont.

Sausalito's primary concern regarding the Biological Resources Section of the Draft EIR is the Project's impacts on the Sausalito shoreline and Richardson's Bay marine environment, including, but not limited to, adverse impacts on eelgrass beds which could lead to further adverse impacts through the marine ecosystem (i.e., if the eelgrass is destroyed, the Pacific Herring would not be able to spawn, and without new herring fry or juveniles, predators would need to find an alternative food source, thus disrupting the balance of the food chain) resulting from the subject areas being utilized as an anchorage. Sausalito is also concerned that boaters unfamiliar with Sausalito's Shoreline and Richardson's Bay are not aware of the shallow water depths which may result in further impacts on the eelgrass beds resulting from propeller, keel, and/or rudder damage.

Although the Draft EIR recognizes the potential for visiting boaters to damage and impact the existing eelgrass beds, the identified Mitigation Measure M-BI-12, Visiting Mariners Information, is not sufficient to address this potentially serious impact. Sausalito agrees a guide or brochure with relevant information educating boat owners/operators about the sensitive habitats and species in the San Francisco Bay is beneficial; however, the mitigation measure clearly states that the information will "be made available", not required, for visiting boaters. As such, the Final EIR should amend Mitigation Measure M-BI-12 to require the project sponsor to work with Sausalito and the Richardson's Bay Regional Agency to prepare an anchorage management

plan (i.e., location of designated anchorages, waste discharge and oil spill requirements and best management practices, identification of ports of call for provisioning, enforcement measures, restricted eelgrass habitat areas, etc.) to ensure the protection of the Richardson's Bay marine ecosystem. Additionally, as with the People Plan, Mitigation Measure M-BI-12 should be amended to allow Sausalito to comment on the Water and Air Traffic Plan prior to final adoption, in addition to requiring the project sponsors to enter into a Memorandum of Understanding with Sausalito to ensure Sausalito's concerns are adequately addressed in the Water and Air Traffic Plan. **11** [BIM-4a, BIM-7] cont.

Lastly, Mitigation Measure M-BI-16, Invasive Species Control, should include a pre-race and post-race inspection by a qualified marine biologist of the Sausalito shoreline to ensure to net increase in invasive species. The mitigation measure should include provisions for the removal (paid for by the project sponsor) of the invasive species by a qualified marine biologist.

Hydrology and Water Quality Impacts

- ✓ *Impact HY-1: Construction and operation of the America's Cup (2012 and 2013) facilities and events could violate water quality standards or waste discharge requirements or otherwise substantially degrade water quality.* **12** [HY-9a]

With the amendments to Mitigation Measure M-BI-12 as recommended previously, Sausalito supports and finds the proposed Mitigation Measure M-HY-1 to be sufficient.

Other Comments:

- ✓ For the purposes of planning, the Final EIR should include a copy of the final race area. **13** [PD-4]
- ✓ The Final EIR should clarify the definition of Land Manager is on Table 5.11-1. Sausalito regulates the private marinas identified in the subject table and does not manage them.
- ✓ Table 5.11-1, Richardson Bay Marina is located within unincorporated Marin County.
- ✓ Table 5.11-1, Cass' Marina has ceased business operations and the docking area is currently unusable.
- ✓ Table 5.11-1, Sausalito Yacht Harbor, located at 501 Humboldt Avenue should be referenced. The Sausalito Yacht Harbor is a private marina which provides approximately 600 berths. **14** [RE-6]
- ✓ Table 5.11-1, Sausalito Marinways, located at 225 Locust Street, provides approximately 54 berths.
- ✓ Table 5.11-1, Sausalito Town Square. The name of the subject location is Plaza Vina del Mar. The Plaza is a Point of Historical Interest and has never been referred by Sausalito as the Sausalito Town Square.

The City has no comments regarding the proposed James R. Herman Cruise Terminal and Northeast Wharf Plaza.

Thank you for the opportunity to provide comments on the Draft EIR. Sausalito's primary objectives are to preserve and protect the natural resources; ensure residents are able to maintain their high quality of life and will not be negatively impacted by the affects of visitors related to the America's Cup races; plan for needs and services related to the America's Cup race visitors; and ensure the visitors have a positive experience in Sausalito's natural and built **15** [GEN-1]

environment. If you have any questions regarding the above comments, please contact Heidi Burns, Associate Planner at (415) 289-4135 or via email at hburns@ci.sausalito.ca.us. 15 [GEN-1] cont.

Sincerely,

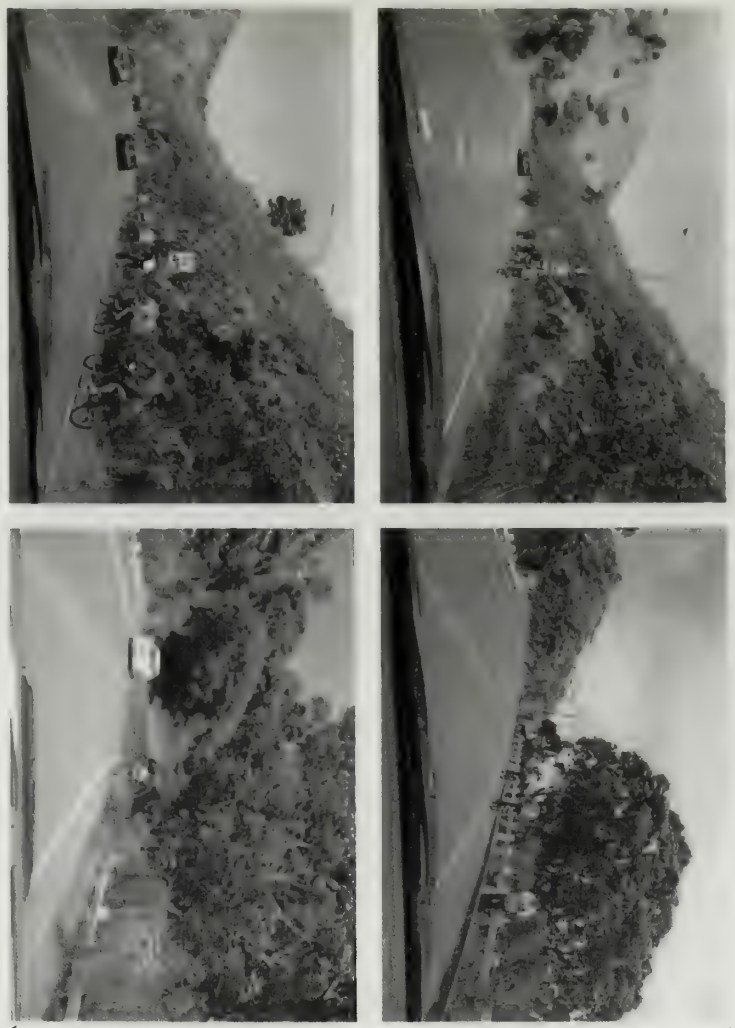
Herb Weiner
Mayor

Enclosure- Photographs of bicyclist on Alexander Avenue, dated August 21, 2011

Cc: City Council Members
Adam Politzer, City Manager
Katherin Sears, 3rd District Supervisor for Marin County
Bill Price, Richardson's Bay Regional Agency

I:\CDD\PROJECTS - NON-ADDRESS\CDD\2011\11-081- America's Cup\Draft EIR Comment Letter 8-25-11.docx

Photographs of Bicyclist on Alexander Avenue, dated August 21, 2011



16 [TR-8a]

16 [TR-8a] cont.

A-Sausalito

A-SFCTA

From: Michael Schwartz
To: Wise, Viktoriya
Cc: Albert, Peter; Monica.Pereira@sfgov.org; Joy.Navarrete@sfgov.org; Rachel Hiatt; Colin Dentel-Post
Subject: Comments on Draft EIR - the 34th America's Cup and James R. Herman Cruise Terminal and Northeast Wharf Plaza
Date: 08/25/2011 01:16 PM

Hi Viktoriya,

Thank you for allowing us a chance to review the Draft EIR for the 34th America's Cup and James R. Herman Cruise Terminal and Northeast Wharf Plaza and congratulations on completing this major milestone for the project. We have two comments on the DEIR as it relates to the Van Ness BRT.

1. When discussing the timing of construction of the Van Ness BRT project (Table 5.1-4, pg. 5.6-112, technical appendix), please specify that project construction is not scheduled not commence until after the completion of all race activities and major events that would trigger construction traffic impacts.
2. When describing VN BRT, (Table 5.1-4 and pg 5.6-112, technical appendix), please include the full list of agency partnerships for the project. FTA is the Lead Agency under NEPA, and the Authority is the Lead Agency under CEQA. Caltrans and SFMTA participate as Participating Agencies under NEPA and as Responsible Agencies under CEQA in environmental review. SFMTA will take the subsequent lead in all major steps of project delivery following completion of the environmental review process, including final design, construction, operation, and maintenance.

01 [TR-12]

Please let us know if you have any questions about these comments. Thanks again.
-Michael

--
Michael Schwartz
Transportation Planner
San Francisco County Transportation Authority
415-522-4823
michael.schwartz@sfcta.org

SAN FRANCISCO
PLANNING DEPARTMENT

1650 Mission St
Suite 400
San Francisco,
CA 94103-2479

Reception
415.558.6378

Fax:
415.558.6409

Planning
Information
415.558.6377

August 29, 2011

Mr. Bill Wycko
Environmental Review Officer
San Francisco Planning Department
1650 Mission Street, 4th Floor
San Francisco, CA 94103

Dear Mr. Wycko,

On August 17, 2011, the Historic Preservation Commission (HPC) held a public hearing and took public comment on the Draft Environmental Impact Report (DEIR) for the proposed 34th America's Cup and James R. Herman Cruise Terminal and Northeast Wharf Plaza Projects. After discussion, the HPC arrived at the comments below:

- The HPC believes that the demolition and removal of historic fabric at the end of Pier 29 is a significant impact and disagrees with the analysis of this work as a less than significant impact. **01** [CP-3]
- The HPC believes the proposed design of the end of Pier 29 does not meet the Secretary's Standards because it is being re-built as a much shorter pier than it was historically. Options that could meet the standards are either to should express the 'collision' with Pier 27 – since this alteration is significant in the history of Pier 29 and could be expressed in the new design, or to rebuild the end of Pier 29 to its historic configuration. **02** [CP-3]
- The HPC finds that the DEIR should include a Pier 29 Restoration Alternative. **03** [CP-3]
- The proposed cruise terminal building does not meet the Secretary of the Interior's Standards, particularly Standard No. 9 for compatibility with the district. **04** [CP-7]
- The HPC finds the amount of proposed bus parking to be inappropriate at the Cruise Ship Terminal. Some HPC members expressed the opinion that there should not be any permanent car parking on the project site as it is incompatible with the district. **05** [CP-7, TR-13]
- The HPC finds the removal of a bulkhead building at Pier 27 and creation of a new plaza will change the rhythm along the Embarcadero and would be an adverse impact to the historic district. **06** [CP-8]
- The HPC finds that the over scaled, vast and empty plaza development at the east end of Pier 29/Pier 27 should be considered in the EIR as an adverse impact to the historic district, and therefore be mitigated. A program and use for the plaza on non-cruise ship days should be developed for the EIR. **07** [CP-3]
- Some members of the HPC find the proposed cruise terminal building incompatible with the character defining features of the historic district, and therefore an adverse impact that must be mitigated. Unlike the existing bulkhead buildings in the district, the proposed cruise terminal building will be seen as an "object" floating with vast amount of space around it. While the contemporary design of the proposed cruise terminal building is differentiated from the existing historic buildings, it is not compatible with the historic district. The proposed design is too busy and complicated whereas the existing historic buildings are simple, direct, and straightforward. **08** [CP-7] cont.
- The HPC believes the proposed solar panels should be seamlessly integrated into the design of the roof so they are not noticeable from a distance. **09** [CP-7]
- Some members believe the new design needs to be light and cheerful, rich in details but plain and simple in overall shape and form. **10** [CP-7]
- For the America's Cup future development, the HPC finds the proposed mitigation measures do not go far enough to minimize large scale impacts to the historic district. **11** [CP-9c]
- Page 5-23 should clarify that Fort Mason is operated by the non-profit Fort Mason Center. **12** [CP-1]
- Page 5-40 the acreage for the Port of Embarkation, Lower Fort Mason, and Fort Mason should be reversed. **13** [CP-1]
- The HPC believes the evaluation of impacts for the Long Term Development Rights under the Host Agreement on the project site are programmatic in nature and not project-level as identified in the DEIR. **14** [IO-5, CP-10]
- The HPC finds the mitigation measures for impacts to the district too specific and believes there are larger impacts to the district which were not discussed and are not mitigated. **15** [CP-4]
- The HPC believes Mitigation Measure CP-1a should be revised to provide greater protection and more specific review procedures prior to the development of treatment plans. **16** [CP-9a]
- The HPC believes the EIR has not sufficiently analyzed the impact or potential impact of the projects on the Embarcadero Historic District. **17** [CP-4]
- The HPC believes there should be stronger procedures in place to allow for more HPC involvement in the review of projects in the Embarcadero and Waterfront Districts, via the City Charter and Section 1010. **18** [CP-2]
- The HPC requests clarity on the procedures for reviewing potential impacts to historic resources from the America's Cup under Section 106 of the National Historic Preservation Act. **19** [CP-2]

The HPC appreciates the opportunity to participate in review of this environmental document.

Sincerely,

Courtney Damkroger, Vice President
Historic Preservation Commission

San Francisco
Redevelopment Agency

One South Van Ness Avenue
San Francisco, CA 94103

415 749 2400

GAVIN NEWSOM, Mayor

Rick Swig, President
Darshan Singh, Vice President
Rosario M. Anaya
Agnes Brennes Ubalde
Miguel M. Bustos
Francine Covington
Leroy King

Fred Blackwell, Executive Director

110-011 11-151

August 24, 2011

Bill Wycko
Environmental Review Officer
San Francisco Planning Department
1650 Mission Street, Suite 400
San Francisco, California 94103

RE: 34th America's Cup and James R Herman Cruise Terminal and Northeast Wharf Plaza
Draft Environmental Impact Report

Dear Bill:

Thank you for the opportunity to review and comment on the 34th America's Cup and James R Herman Cruise Terminal and Northeast Wharf Plaza Draft Environmental Impact Report ("Draft EIR"), dated July 11, 2011. We are providing comment on two aspects of the proposed project evaluated in the Draft EIR: (1) Boat Berthing at the Rincon Point Open Water Basin or its Alternatives, and (2) Teatro Zinzanni

(1) Boat Berthing at the Rincon Point Open Water Basin or its Alternatives. The land adjacent to the contemplated Rincon Point Open Water Basin is within the Rincon Point South Beach Redevelopment Project Area including Rincon Park. All landside activities related to the Rincon Point Open Water Basin, including access to/from the berthing area, would occur within the Rincon Point South Beach Redevelopment Project Area, which is within the jurisdiction of the Redevelopment Agency. The Draft EIR does not include analysis of a specific design for the temporary marina at the Rincon Point Open Water Basin, and therefore, there will need to be subsequent environmental review conducted at the time the specific design is completed. Since landside access will be through the Redevelopment Project Area, the Redevelopment Agency will need to be involved in the environmental review and entitlement for this temporary marina. 01 [PD-3]

Moreover, our understanding from the Draft EIR is that dredging activity in the Rincon Point Open Water Basin could trigger development rights for a permanent marina either at Rincon Point or at alternative marina locations at South Beach and Mission Bay, which may require significant landside facilities. As stated in the Draft EIR, because there are no marina designs to evaluate, the Draft EIR only provides a qualitative-level analysis of the permanent marina Consequently, the permanent marina will require subsequent environmental review Since landside access to the Rincon Point Open Water Basin will be provided through the Rincon Point

COM-96

Mr. Bill Wycko
San Francisco Planning Department
August 24, 2011
110-011.11-151
Page 2

South Beach Redevelopment Project Area and any proposed landside facilities would be located within the Rincon Point South Beach Redevelopment Project Area, the Redevelopment Agency will need to be involved in the environmental review and entitlement for the permanent marina.

Regarding the text of the Draft EIR, we request changes on Draft EIR pages 3-20 and 3-93 to add text stating that landside activities related to marina development will be in the Rincon Point South Beach Redevelopment Project Area and will be subject to Redevelopment Agency approval (see Attachment 1). 01 [PD-3] cont.

(2) Teatro Zinzanni. One of the sites for the proposed dinner theater is within the Mission Bay South Redevelopment Project Area. The Mission Bay South Redevelopment Project Area is within the jurisdiction of the Redevelopment Agency, and therefore, any proposal for Teatro Zinzanni on this site would be subject to review and approval by the Agency. We request a change on Draft EIR page 3-86 to add "or Redevelopment Agency" to the third full paragraph (first paragraph after the bullet points) (see Attachment 2). The Draft EIR includes the statement that "further environmental review may be required…if/when the site is selected." Thus, the Redevelopment Agency can evaluate the proposal for CEQA compliance if it receives a proposal for Teatro Zinzanni in the Mission Bay South Redevelopment Project Area. 02 [PD-3]

The Draft EIR also has conflicting statements in the Land Use chapter on the proposed dinner theater use On Draft EIR page 5 2-27, it states that the dinner theater use would require a zoning change, while on Draft EIR page 5.2-30, it states that the use would not require rezoning. The proposed land use is a permitted use for the Hotel designation in the Mission Bay South Redevelopment Plan. Accordingly, we request a change on Draft EIR page 5.2-27 to state that the dinner theater use is consistent with existing zoning (see Attachment 3) 03 [LU-3]

Again, thank you for the opportunity to review and comment on the Draft EIR. Please feel free to call me at 415-749-2577 or send an email to Stanley.Muraoka@sfgov.org should you have any questions

Sincerely,

Stanley Muraoka
Environmental Review Officer

Attachments
cc: Amy Neches
Fred Blackwell
Stephen Maduli-Williams

A-SFRA

Land fronting the Open Water Basin is in the Rincon Point South Beach Redevelopment Project Area, and therefore, any access/staging acitivies for berthing facilities located at this Open Water Basin will be subject to review and approval by the Redevelopment Agency.

during low tide. This area is designated as an Open Water Basin in the Port's WLUP and the BCDC Special Area Plan.

Add text to state that landside activities related to the temporary berthing facilities will be in the Rincon Point South Beach Redevelopment Project Area and will be subject to Redevelopment Agency approval.

Pier 19, Pier 19½, and Pier 23

As shown in Figure 3-6, Pier 19, Pier 19½ and Pier 23 are located along The Embarcadero near the intersection of Front Street and The Embarcadero within the City's Northeast Waterfront neighborhood and the Port's WLUP Northeast Waterfront.[13] Piers 19 and 23 and their associated sheds are contributing resources in the Embarcadero Historic District. They are joined by a non-historic shed building, Pier 19½, which runs parallel to The Embarcadero. There are 28 leases for space in Piers 19-23, mostly for warehouse purposes with ancillary parking, with parking in Pier 19½ and office in Pier 23. The Pier 23 Café, a free standing building, is located directly adjacent to and north of Pier 23, and is a contributing resource in the Embarcadero Historic District. (This building is not included in the proposed AC34 project, and would remain in place and unaltered.)

04 [PD-3]

Northeast Wharf Open Water Basin (Piers 19-23 and Piers 23-27)

The water basins between Piers 19-23 and Piers 23-27 comprise the Northeast Wharf Open Water Basin. Collectively, these water basins are designated as an Open Water Basin in the Port's WLUP and the BCDC Special Area Plan. The triangular-shaped Pier 23-27 basin fronts the designated Northeast Wharf Plaza in these plans.

Piers 27-29

As shown in Figure 3-6 and **Figure 3-11**, Piers 27-29 is located along The Embarcadero at the intersection of Lombard Street within the City's Northeast Waterfront neighborhood and the Port's WLUP Northeast Waterfront. This 14.8-acre, triangular-shaped facility is the largest pier in the northern half of the Port waterfront (north of the Ferry Building) and includes the longest functional wharf face for vessel berthing (approximately 1,300 feet long, with an apron width of 48 feet).

Pier 27 has long been in continuous maritime use for berthing deep-draft vessels, and it previously supported cargo ship, military, and government research vessel berthing. Currently, Pier 27 is an important secondary berth used for passenger cruise ships when more than one cruise ship is in port, in addition to providing berthing for military, large research vessels, and ceremonial ships. The berth at Pier 27 is maintained at a depth of -35 feet mean lower low water (MLLW) under the Port's existing permitted maintenance dredging program.

[13] The WLUP Northeast Waterfront extends from Pier 7 to Pier 35.

ATTACHMENT 1

COM-97

A-SFRA

Land fronting the Piers 14-22½ Open Water Basin is in the Rincon Point South Beach Redevelopment Project Area, and therefore, those aspects of marina development that would affect the Redevelopment Project Area will be subject to review and approval by the Redevelopment Agency.

floating docks for boat berthing, gangways and other pedestrian access facilities, and boat launch ramps. Landside facilities can include vehicular access and parking, structures (e.g., for administration uses, etc.), and a range of utilities. Any future marina proposal(s) would require detailed design studies and future project-specific environmental review and permitting. For purposes of this EIR, it is assumed the Piers 32-36 Open Water Basin may accommodate up to 90 berths for boats ranging between 50 and 200 feet in length, and the Piers 14-22½ Open Water Basin would accommodate up to 425 berths ranging between 25 and 50 feet in length. In the absence of any detailed proposals for marinas at this time, marina development is addressed qualitatively at a program-level in this EIR.

Add text to state that landside activities related to marina development will be in the Rincon Point South Beach Redevelopment Project Area and will be subject to Redevelopment Agency approval.

3.4.9 Successive Defense Potential

The possibility exists that if GGYC were to succeed in defending the America's Cup in AC34, it would propose to hold subsequent America's Cup events in San Francisco. The Host Agreement provides that the Event Authority's leases of project venues may be extended for future America's Cup events, but only on condition that the Event Authority would enter into a new Host Agreement with the City. Any future America's Cup events would be subject to environmental review under CEQA along with applicable permits and approvals. At this time, it is speculative whether the GGYC would successfully defend the America's Cup in AC34 and, if so, would elect to hold the subsequent America's Cup event in San Francisco.

05 [PD-3]

Similarly, it would be speculative to assume that any challenging team that may win AC34 would propose to hold the subsequent America's Cup event in San Francisco. Likewise, any such proposal would be subject to a new Host Agreement between the Event Authority and the City, along with associated environmental review under CEQA and other applicable approvals and permits.

3.4.10 Amendments to BCDC Special Area Plan for AC34

As part of the proposed AC34 project, the Port or the Event Authority would initiate a request to amend the BCDC Special Area Plan (an element of the San Francisco Bay Plan). Any such revisions to the Special Area Plan also would involve amendments to the Port's WLUP to maintain consistent policies of the two agencies. The proposed amendments are:

1. *Rincon Point Open Water Basin (Piers 14- 22½):* Amendments to permit berthing on a temporary basis for the AC34 events of large spectator yachts, race support vessels and smaller recreational boats. Any future proposal for development or fill proposals within the Rincon Point Open Water Basin would require a separate amendment to BCDC plans and associated project-specific environmental review.

2. *Brannan Street Wharf Open Water Basin (Piers 32-36):* Amendments to permit berthing on a temporary basis for the AC34 events of AC45s and AC72s, large spectator yachts, race support vessels and smaller recreational boats. Any future proposal for development or fill proposals within the Brannan Street Wharf Open Water Basin would require a separate amendment to BCDC plans and associated project-specific environmental review.

ATTACHMENT 1

Davis Street and Broadway, and Piers 15-17 is located directly across The Embarcadero. This site is located in the N. rtheast Waterfront Local Historic District; consequently any development design would require review by the Historic Preservation Commission in addition to review by the Waterfront Design Advisory Committee.

- A site located approximately 2½ miles south of Piers 27-29 in Mission Bay. This triangular-shaped, level, paved site is bounded by Third Street on the east, Channel Street on the south, Fourth Street on the west and China Basin Channel on the north (see Figure 3-5). The site currently serves as a surface parking lot. Public walkways are present on Third Street, Fourth Street, and Channel Street adjacent to the site. An approximate 100-foot wide unpaved open space buffer is located between the site and the edge of China Basin Channel. Mission Creek Park is located to the west across Fourth Street. Surface parking lots are located to the east across Third Street and to the south across Channel Street. AT&T Park is located approximately 600 feet north of this site, across China Basin Channel.

or Redevelopment Agency

- A site to be determined located on property outside the jurisdiction of Port of San Francisco.

Teatro Zinzanni would be required to develop a design and construction proposal that would be subject to City review for compliance with applicable zoning and design review requirements. This EIR provides an environmental analysis of the first two potential relocation sites (Embarcadero/Broadway and Mission Bay sites). Depending on details of the site and design, further environmental review may be required for either of these potential relocation sites if/when the site is selected. The site to be determined be determined located on property outside the jurisdiction of Port of San Francisco is not analyzed in this EIR and if selected would be subject to environmental review as needed

Change text to clarify that the Teatro Zinzanni proposal could be subject to Redevelopment Agency review; applies to the Mission Bay site.

06 [PD-3]

Bauer's California Coach Sales and Service (which operates and stores coaches and limousines within the Pier 27 shed) is proposed to relocate approximately 2½ miles south of Piers 27-29 to Pier 50. This approximately 20-acre site is located in China Basin south of AT&T Ballpark and Pier 48, off Third Street at the terminus of Mission Rock Street. Pier 50 includes four large sheds and three shelters and serves as the Port's Maintenance Center in addition to housing various general warehouse uses.

San Francisco Soccer's Telegraph Field is considering relocation approximately 0.2 miles south of Piers 27-29 to the Pier 17 shed at Piers 15-17. The Pier 17 shed is approximately 111,000 gross square feet, and is a contributing resource to the Port of San Francisco Embarcadero National Register Historic District. The Pier 17 shed is under long-term lease to the Exploratorium as part of the Piers 15-17 facility, which is currently undergoing construction to improve Pier 15 and adjacent valley and pier aprons for the new Exploratorium Interactive Science Museum. A portion of the west end of Pier 17 is being improved to provide new office and facility for Bay Delta Tug and Tow. The remainder of Pier 17 is for future expansion of the Exploratorium; in the interim, the Exploratorium will sublease Pier 17 for commercial and light industrial users, which could include the soccer field.

Other existing tenants that would be displaced as a result of AC34 would need to relocate to other available Port facilities, and/or other available locations in San Francisco or the surrounding area for lease. Please see Section 5.4, Population and Housing, for additional discussion of this topic.

ATTACHMENT 2

COM-98

locations along with a range of hospitality services, including general merchandise sales, food and beverage concessions, and entertainment.

These AC34 2012 and 2013 temporary viewing location uses are permitted land uses in areas zoned by the City for P (Public) use and would not be considered a major change in use.

America's Cup Secondary Viewing Locations and Vicinity

No permanent improvements are proposed within the secondary viewing locations as part of the AC34 2012 and 2013 projects, and therefore the projects would not disrupt or divide the physical arrangements of existing uses and activities that surround it. The installation of temporary facilities, such as portable wash stations, toilets, and solid waste receptacles, will be determined through sponsor coordination with the managers of the secondary viewing locations. These temporary installations would not substantially alter land use.

As stated in the Project Description, most existing tenants currently leasing and occupying Port facilities that would be used for AC34 venues (specifically, at Piers 30-32, Seawall Lot 330, Pier 26, Pier 28, Pier 19, Pier 19½, Pier 23, Piers 27-29 and Pier 29½) would be displaced prior to the AC34 2012 event. Three tenants in the affected facilities are recognized to have unique requirements that may limit relocation options: Teatro Zinzanni dinner theater, Bauer's California Coach Sales and Service, and San Francisco Soccer's Telegraph Field.

Revise text to be consistent with page 5.2-30; dinner theater use is consistent with existing zoning.

Teatro Zinanni would relocate from Piers 27-29 to either a site near the intersection of Broadway and The Embarcadero within the Northeast Embarcadero Historic District, a site in Mission Bay bounded by Third Street, Channel Street, Fourth Street, and the China Basin Channel, or another location not on Port property to be determined. The Broadway and Embarcadero and the Third and Channel Street sites are both surface parking lots. Nearby uses to the Broadway/Embarcadero site are low- to mid-rise commercial buildings and surface parking lots. Nearby uses to the Mission Bay site include China Basin Park, Mission Creek Park, Mission Bay Library, and a mix of commercial and residential uses along Berry Street, north of the channel. To the east and south are additional surface parking lots. Relocation of the dinner theater to either of these locations would change the existing land use. ~~Both moves would require a zoning change to accommodate the dinner theater use.~~ Zoning at either the Broadway/Embarcadero or Mission Bay site would accommodate the dinner theater use.

07 [LU-3]

Bauer's California Coach Sales and Service would relocate from Piers 27-29 to Pier 50. Pier 50 includes 4 large sheds and 3 shelters and serves as the Port's Maintenance Center as well as various general warehouse uses. Surface parking lots are located to the west, north, and south. Given the industrial- and transportation-related uses in the vicinity, the limousine service would not substantially alter land use in this area.

Finally, San Francisco Soccer's Telegraph Field is considering moving to the Pier 17 shed at Piers 15-17. A portion of the west end of Pier 17 is being improved to provide a new office and facility for dba Baydelta Marine Inc. Bay Delta Tug and Tow. The remainder of Pier 17 is for future expansion of the Exploratorium; in the interim, the Exploratorium will sublease Pier 17 for commercial and light industrial users, including the soccer field. The change in use at Pier 17 due to the sublease with the soccer field would be temporary and not substantially alter land use.

ATTACHMENT 3

A-Tiburon

Town of Tiburon • 1505 Tiburon Boulevard • Tiburon, CA 94920 • P 415.435.7373 F 415.435.2438 • www.ci.tiburon.ca.us

Community Development Department

August 24, 2011

RECEIVED
AUG 25 2011
CITY & COUNTY OF S.F.
PLANNING DEPARTMENT
M E A

Jeff Slavitz
Mayor
Jim Fraser
Vice Mayor
Richard Collins
Councilmember
Alice Fredericks
Councilmember
Emmett O'Donnell
Councilmember
Margaret A. Curran
Town Manager

San Francisco Planning Department
Attn: Bill Wycko, Environmental Review Office
1650 Mission Street, Suite 400
San Francisco, CA 94103

RE: Comments on Draft Environmental Impact Report for the America's Cup

Dear Mr. Wycko:

The Town of Tiburon wishes to provide comments regarding the Draft Environmental Impact Report (DEIR) that has been prepared for the 34th America's Cup races. The DEIR does not substantively address the issues raised by the Town in our letter of March 11, 2011 in response to the Notice of Preparation for this project. 01 [INT-4]

The Town of Tiburon requests that the Final EIR for this project respond to the following comments:

1. Traffic Impacts

The DEIR clearly indicates that the project will generate significant traffic and demand for parking in Tiburon, accounting for a substantial portion of the 5,724 vehicle trips and demand for 2,004 parking spaces estimated for Marin County as a whole. Impact TR-59 states that "implementation of the AC34 2013 events would result in significant impacts on traffic operations at secondary viewing areas outside of San Francisco." The mitigation measure for this impact (Mitigation Measure M-TR-1) calls for the development and implementation of a "People Plan," but gives no indication as to how such a plan would address potential impacts in Tiburon. The EIR should more clearly identify the types of features that might be included in the "People Plan." 02 [TR-3a]

Mitigation Measure M-TR-1 should be modified to specifically address the circulation, parking and bicycle impacts caused by visitors to Tiburon. Efforts to develop and implement the People Plan must include input from the Town of Tiburon and other secondary viewing areas outside of San Francisco. The resulting People Plan must incorporate measures that will materially assist Tiburon and other cities in dealing with the impacts of the AC34 2013 events. Where this mitigation measure will result in expense to the Town, the DEIR should identify methods to offset such costs.

A-Tiburon

The DEIR should estimate the number of vehicle trips generated on Tiburon Boulevard or the increase in bicycle ridership coming to Tiburon. The DEIR should also address the lack of bicycle parking spaces and ferry service availability to accommodate transportation of the cyclists and their bicycles back to San Francisco. 02 [TR-3a] cont.

2. Public Services

The Town of Tiburon disagrees with the unrealistically high significance standards established to gauge impacts on public services contained in the DEIR. The analysis within the DEIR concludes that the project will not have a potentially significant impact related to public services unless it results in construction of new or physically altered facilities. This inappropriate threshold of significance greatly underestimates the burden placed on local police, fire and public works departments to provide services to the visitors generated by the AC34 2013 events. The Town anticipates substantial additional public expense to accommodate AC34 physical impacts such as those described above. This analysis must be expanded to more thoroughly estimate all public service activities affected by the project and not be limited to the need for new or altered public facilities.

The analysis should include impacts on the following public services: 03 [PS-3]

a. Police. The EIR should include an analysis of the impacts to the Town's police services, including whether additional police staffing is necessary to support an increase in visitors coming to Tiburon (including Angel Island, which lies within the Tiburon town limits) resulting from the America's Cup races. Appropriate mitigation measures should be incorporated into the EIR where necessary to reduce any police services impacts to a less-than-significant level. Where such mitigation measures will result in expense to the Town, the DEIR should identify methods to offset such costs.

b. Fire. The Tiburon Fire Protection District and Southern Marin Fire Protection District provide fire protection services to the Town. The EIR should include an analysis of what additional fire protection or EMT/paramedic services may be needed to support visitors coming to Tiburon for the America's Cup races, and identify any mitigation measures to reduce indentified impacts. Where such mitigation measures will result in expense to the Town, the DEIR should identify methods to offset such costs.

c. Public Works. The Town Department of Public Works is responsible for the maintenance and management of the Town's infrastructure, 04 [RE-7]

including without limitation, streets, sidewalks, parks and open spaces. The EIR should include an analysis of potential impacts to these facilities, such as Shoreline Park, or staffing needs that could occur due to an increase in visitors as a result of the America's Cup races, and identify any mitigation measures to reduce indentified impacts. Where such mitigation measures will result in expense to the Town, the DEIR should identify methods to offset such costs. **04** [RE-7] cont.

d. Public Restroom Facilities. The Town of Tiburon has limited public restroom facilities in its Downtown area where most America's Cup visitors to Tiburon would be expected to congregate. The Town may need to rent and locate temporary restroom facilities to accommodate this need. The EIR should address this issue, and if it finds that existing public restroom facilities will not be able to accommodate these visitors, then the Town requests identification of appropriate mitigation measures to address the additional demand for public restroom facilities, including funding sources. **05** [UT-3]

e. Refuse. The EIR should include an analysis of how much refuse will be generated by visitors and how the refuse removal will be managed. The Town may need to contract for additional refuse collection services with Mill Valley Refuse Service to handle the additional refuse generated in public portions of Tiburon. Mitigation measures should be identified to address any identified impacts regarding refuse collection and/or disposal. Where such mitigation measures will result in expense to the Town, the DEIR should identify methods to offset such costs.

f. Buses and Ferries. The EIR should include an analysis of the impacts of additional visitors coming to Tiburon utilizing public transportation services such as buses and ferries, and determine whether those public services will have the capacity to serve the increase in riders. The EIR should include an analysis of potential impacts from increased bus and ferry scheduled arrival and departure times if those are indeed anticipated. **06** [TR-7e]

g. Angel Island Improvements. Angel Island State Park is located within the Tiburon town limits. Any construction of viewing stands or other improvements to facilitate this viewing location must be addressed in the EIR. **07** [PD-1]

h. Watercraft Mooring and Safety. There are limited available locations around the Tiburon harbor for mooring additional watercraft. The EIR should address water safety concerns from the increased usage of the waterways around Tiburon and Belvedere and the need for additional law enforcement to patrol these waters. **08** [PD-7]

COM-100

i. Cost Offsets. The EIR should discuss whether the agreement between the project proponents and the City of San Francisco includes provisions to offset costs that would be borne by other municipalities, including the Town of Tiburon. **09** [GEN-2]

3. Reliance on Future Plans to be Prepared

The use of Mitigation Measure M-TR-1 to develop and implement a "People Plan" relies on a plan to be prepared in the future instead of a mitigation measure that will be thoroughly developed as part of the EIR. The EIR also does not set quantitative standards to be achieved that would reduce impacts and contains mitigation measures that rely on the preparation of other future plans, including waste and air traffic plans, waste management plans and a public safety plan. This reliance on future plans is inconsistent with CEQA guidelines for preparation of an EIR. When an EIR defers the development of specific mitigation measures, CEQA requires an explanation of why deferral is appropriate. **10** [PD-7]

Thank you for the opportunity to provide comments on the DEIR. If you have any questions, please contact me by telephone at (415) 435-7393 or via e-mail at dwatrous@ci.tiburon.ca.us.

Very truly yours,

Daniel M. Watrous
Planning Manager

S:\Planning\Staff Folders\dwatrous\Letters\Americas Cup DEIR letter.doc

Organizations

NON-GOVERNMENTAL ORGANIZATIONS COMMENTING ON THE DRAFT EIR

Commenter Code	Name of Person and Organization Submitting Comments	Comment Format	Comment Date
O-ACEC	Jennifer Clary, *et al.*, America's Cup Environmental Council	Letter	08/25/2011
O-Arc Eco1	Saul Bloom, Executive Director & CEO, Arc Ecology	Transcript	08/11/2011
O-Arc Eco2	Saul Bloom, Executive Director & CEO, Arc Ecology	Letter	08/25/2011
O-Baykeeper	Deb Self, Executive Director, San Francisco Baykeeper	Transcript	08/11/2011
O-CCDC	Deland Chan, Senior Planner, Chinatown Community Development Center	Email	08/23/2011
O-CFDG	Martha Walters, Chair, Crissy Field Dog Group	Email	08/25/2011
O-CNPS	Libby Lucas, California Native Plant Society	Email	08/25/2011
O-CPCFC	Jacob E. Perea, *et al.*, Community Partners of the Crissy Field Center	Letter	08/25/2011
O-Dolphin1	Reuben Hechanova, President, *et al.*, Dolphin Swimming and Boating Club	Transcript	08/11/2011
O-Dolphin2	Ken Coren, Vice President, Dolphin Swimming and Boating Club	Transcript	08/11/2011
O-Dolphin3	Reuben Hechanova, President, *et al.*, Dolphin Swimming and Boating Club	Email	08/25/2011
O-EOP	Zane O. Gresham, Morrison & Foerster LLP, representing Equity Office Partners	Letter	08/25/2011
O-Explor	Jeff Hamilton, Director of Government Relations, Exploratorium	Email	08/25/2011
O-Ferry Bldg	Jane Connors, Senior Property Manager, Ferry Building, San Francisco	Transcript	08/11/2011
O-FMC	Pat S. Kilduff, Director of Community Partnerships and Marketing, Fort Mason Center	Letter	08/25/2011
O-FOTE	Barbara Salzman, Chair, Friends of the Estuary	Letter	08/24/2011
O-FWCBD1	Kevin Carroll, Executive Director, Fisherman's Wharf Community Benefit District	Transcript	08/11/2011
O-FWCBD2	Kevin Carroll, Executive Director, Fisherman's Wharf Community Benefit District	Letter	08/25/2011
O-GGAS1	Mike Lynes, Conservation Director, Golden Gate Audubon Society	Transcript	08/11/2011
O-GGAS2	Mike Lynes, Conservation Director, Golden Gate Audubon Society	Letter	08/25/2011
O-GGNPC1	Doug Overman, Deputy Director, Golden Gate National Parks Conservancy	Transcript	08/11/2011
O-GGNPC2	Lynn Wendell, Co-Vice Chair, *et al.*, Golden Gate National Parks Conservancy	Letter	08/25/2011
O-MAS	Phil Peterson, Co-Chair, *et al.*, Marin Audubon Society	Letter	08/25/2011
O-MCL	Susan Stompe, President, Marin Conservation League	Letter	08/25/2011
O-NPC	Meredith Thomas, Executive Director, Neighborhood Parks Council	Letter	08/25/2011

NON-GOVERNMENTAL ORGANIZATIONS COMMENTING ON THE DRAFT EIR (Continued)

Commenter Code	Name of Person and Organization Submitting Comments	Comment Format	Comment Date
O-NRDC	Leila Moore, Staff Attorney, *et al.*, National Resources Defense Council	Letter	08/25/2011
O-OHPROA	Mary Ellen Davis, Board of Directors President, One Hills Plaza Residential Owners Association	Letter	08/25/2011
O-PSCF	Walter J. Haas, *et al.*, Philanthropies in Support of Crissy Field	Letter	08/25/2011
O-RBACS	Brooke Langston, Center Director, Richardson Bay Audubon Center & Sanctuary	Letter	08/25/2011
O-RDCE1	Dennis G. MacKenzie, Round the Diamond Consulting and Education	Transcript	08/11/2011
O-RDCE2	Dennis G. MacKenzie, Round the Diamond Consulting and Education	Letter	08/22/2011
O-SERC	Kimberly Ross, Vice-President, South End Rowing Club	Transcript	08/11/2011
O-SFAH	Mike Buhler, Executive Director, San Francisco Architectural Heritage	Letter	08/25/2011
O-SFBA	William Robberson, President, San Francisco Boardsailing Association	Letter	08/15/2011
O-SFBC	Andy Thornley, Policy Director, San Francisco Bicycle Coalition	Letter	08/25/2011
O-SFBT	Maureen Gaffney, Bay Trail Planner, San Francisco Bay Trail	Letter	08/25/2011
O-SFT	Jennifer Clary, President, San Francisco Tomorrow	Transcript	08/11/2011
O-SFTRU	Peter Strauss, San Francisco Transit Riders Union	Transcript	08/11/2011
O-STB	David Lewis, Executive Director, Save the Bay	Letter	08/25/2011
O-THD	Nancy Shanahan, Telegraph Hill Dwellers	Transcript	08/11/2011
O-TIRN1	Teri Shore, Program Director, Turtle Island Restoration Network	Transcript	08/11/2011
O-TIRN2	Teri Shore, Program Director, Turtle Island Restoration Network	Letter	08/17/2011
O-WFA	Justin Allamano, Waterfront for All	Letter	08/24/2011
O-WW	Thomas Lippe, Lippe Gaffney Wagner LLP, representing Waterfront Watch	Letter	08/25/2011

SOURCE: ESA, 2011

Arc Ecology • San Francisco Baykeeper
California Native Plant Society, Yerba Buena Chapter
Clean Water Action
Nature in the City • Planning and Conservation League
Presidio Environmental Council • San Francisco for Reasonable Growth
San Francisco Neighborhood Network
San Francisco Tomorrow • San Francisco Transit Riders Union
San Francisco League of Conservation Voters
Sierra Club • The Bay Institute
Telegraph Hill Dwellers • Treasure Island Wetlands Project
Turtle Island Restoration Network

August 25, 2011

Bill Wycko, Environmental Review Officer
San Francisco Planning Department
1650 Mission Street, Suite 400
San Francisco, CA 94103

Re: Comments to Draft Environmental Impact Report - The 34th America's Cup Races and James R. Herman Cruise Terminal and Northeast Wharf Plaza (SF Planning Case No. 2010.0493E)

Dear Mr. Wycko,

On behalf of the Environmental Council, we submit the attached comments on the Draft Environmental Impact Report (EIR) for the 34th America's Cup Races (AC34) and James R. Herman Cruise Terminal and Northeast Wharf Plaza (Proposed Project), released July 11, 2011. In order to maintain an effective, balanced and unified voice for environmental- and community-based concerns, the Council is comprised of environmental, neighborhood and community organizations, most of which are listed in this letter. Many of our organizations are developing and submitting individual comments which we also endorse and support. Our member organizations are committed to a successful and sustainable America's Cup event.

We appreciate the opportunity to provide these comments, which serve to inform the preparation of the Final EIR and assist San Francisco in maintaining its aggressive review and approval schedule for the Proposed Project. We have been working with the City's team for the last six months and appreciate the opportunity to have been involved extensively from an early date. We also appreciate the amount of work that has been conducted in a very compressed period and look forward to continuing our efforts to work with the City's team to improve the environmental documents and the City's preparations for the event. At the same time, and you've heard this from others, we feel both concern and some frustration that we have not

COM-103

received feedback from our earlier efforts to engage in the process, nor are most of the concerns we've expressed in several venues reflected in the DEIR as released.

We have three broad areas of concern;

1 The document, massive as it is, still lacks necessary information in many regards, and repeatedly understates the impacts of the race events on the City and the Bay. This is reflected in issues that span from understating impacts on the Bay itself to understating likely impacts on locations like Inspiration Point where observers are likely to gather, to understating impacts on the Muni system and its riders. This consistent understatement of impacts leads directly to inadequate and under-funded mitigation measures, the unnecessary inconveniencing of visitors and locals alike, and serious effects on our unique natural and historic environment. **01** [GEN-3]

2 The document references many implementation plans as mitigation for identified and unidentified impacts. Yet none of the plans have been finalized, those that are available are vague and contain few mandatory actions, and many are not yet available even in draft form. We understand that these implementation plans are one tool for accommodating the short time frame for environmental review; but if the plans are not included in the DEIR, then the document itself must specify those required elements within each plan that will mitigate the identified impact. Without this information, neither we as readers nor you as planners can know what the proposed mitigations are, determine their adequacy or ensure their funding. **02** [IO-4c]

3 The document is seriously flawed in its attempt to combine the short-term event with the long-term development of the Cruise Terminal and the as yet undetermined development rights that will be granted to the Event Authority. In particular, the long-term development projects that are triggered by the Host and Venue Agreement can only be studied on a programmatic level, along the lines of the 1995 Waterfront Land Use Plan EIR, using a use pallet that assumes maximum use of each site, and guided by existing development agreements and public trust restrictions. Yet this document makes the mistake of assuming that impacts can be identified and mitigated on a project level when the project locations and boundaries, much less the projects themselves, have not yet been defined. The approach taken in this document is not necessary to prepare for the America's Cup event, and runs the risk of delaying needed approvals. **03** [INT-1, IO-5]

The goal of CEQA is to provide adequate and complete information to both the public and decision makers about the impacts of a proposed project and how to avoid and mitigate them. The City's attempt to plan for the project concurrent with the CEQA analysis has produced a deeply flawed document that cannot provide the assistance needed, and runs the risk of delaying the project. **04** [INT-1]

Our organizations have consistently pledged to assist the City in its efforts to host a successful and sustainable America's Cup event. We can only do that if you allow us to help you. We continue to stand ready to provide you with additional information and assistance in finalizing this document.

Sincerely,

Jennifer Clary Clean Water Action jenclary@sbcglobal.net	Deb Self San Francisco Baykeeper deb@baykeeper.org
Jan Blum San Francisco Tomorrow <1janblum@sbcglobal.net>	Nancy Shanahan Vice President Telegraph Hill Dwellers
Steven Krefting Presidio Environmental Council skrefting@igc.org	Amandeep Jawa San Francisco League of Conservation Voters
Ruth Gravanis, Director Treasure Island Wetlands Project gravanis@earthlink.net	Saul Bloom Executive Director Arc Ecology
Rebecca Evans Chair, San Francisco Group Sierra Club rebecae@earthlink.net	Jena Price Planning and Conservation League Jprice@pcl.org
Marc Holmes San Francisco Bay Institute	Teri Shore Program Director Turtle Island Restoration Network
Peter Strauss Transit Riders Union	Sue Hestor San Franciscans for Reasonable Growth
Lee Radner Chair	Gerry Crowley, Co-Founder San Francisco Neighborhood Network

O-ACEC

Friends of Golden Gateway	Peter Brastow Nature in the City
Jake Sigg California Native Plant Society	

Environmental Council Comments
America's Cup DEIR Case No. 2010.0493E
Revised August 29, 2011

TABLE OF CONTENTS

Section	Comment Area	Page No.
1.	EIR and Implementation Plans	3
2.	Ch. 3 Project Description	4
3.	Sect. 5.3 Aesthetics	15
4.	Sect. 5.4 Population & Housing	18
5.	Sect. 5.5 Cultural Resources	24
6.	Sect. 5.6 Transportation and Circulation	58
7.	Sect. 5.7 Noise & Vibration	79
8.	Sect. 5.8 Air Quality	82
9.	Sect. 5.9 Greenhouse Gas Emissions	89
10.	Sect. 5.10 Wind	90
11.	Sect. 5.11 Recreation	103
12.	Sect. 5.12 Utilities & Service Systems	109
13.	Sect. 5.14 Terrestrial Biological Resources –	115
14	Sect. 5.14 (cont.) Marine Biological Resources	122

Environmental Council Comments
America's Cup DEIR Case No. 2010.0493E
Revised August 29, 2011

15.	Sect. 5.16 Hydrology & Water Quality	130
16.	Sect. 5.17 Hazards & Hazardous Materials	136
17.	Ch. 6 Other CEQA Considerations	137
18.	Ch. 7 Alternatives	152
	Commenter Qualifications	154

Attachments

1. In support of comment AE-1 "*Cup's yacht plan threatens our wide-open views*" John King, urban design critic, San Francisco Chronicle, August 22, 2011
2. In support of Comment TR-9, photos of local neighborhood congestion
3. In support of Comments AQ-8 and AQ-13, August 9 letter to Port and Office of Economic and Workforce Development regarding disconnection of shoreside power at Pier 27
4. In support of comment UT-1, HY-1 July 22, 2011 letter from Regional Water Quality Control Board to Port of San Francisco
5. In support of comment UT-1, July 18, 2011 letter from San Francisco Baykeeper to the Regional Water Quality Control Board
6. In support of comment UT-4 "Water Supply and Demand" Planning for the Future" August 9 2011 Presentation to San Francisco Public Utilities Commission
7. In support of comment HY-1 "*Stormwater Calculations – Water Quality Volume and Water Quality Flow Rate Calculator*"
8. Comments of Are Ecology, Aug. 25, 2011
9. "*2011 San Francisco Residential Development Pipeline*" SF Business Times, June 24-30, 2011

COM-105

1. RELATIONSHIP BETWEEN EIR AND IMPLEMENTATION PLANS

The DEIR makes frequent references to various specific Implementation Plans (the AC Implementation Plans summarized on Pages 3-87 to 3-90 and at http://oewd.org/Development_Projects-Americas_Cup.aspx). Some of these, e.g., the People Plan, are critical to the DEIR and will discuss impacts and alternatives, and make recommendations that are expected to become mitigation measures and/or adopted by the City as part of the event approvals. These are not included in the DEIR, as they are still in the process of being developed, and some will only be completed in 2012. Since these final Plans are not included in the DEIR and are only referenced along with an "Update #2" to the draft People's Plan, the DEIR cannot fully describe the environmental effects of the project nor the potential mitigations. Implementation Plans referenced but not included in the DEIR include:

- People Plan—published separately from DEIR
- Waste Management Plan— published separately from DEIR
- Parks Event Operations Plan—approach expected late summer, draft in fall 2011
- Public Safety Plan—draft in fall 2011
- Sustainability Plan—draft released late Sept & final by EIR completion
- Workforce Development Plan—submitted by EIR completion
- Water and Air Traffic Plan—draft submitted by EIR completion, final in 2012
- Team Base Operations Manual—2012

05 [PD-7]

The concept of including mitigation as part of an implementation plan is not new; but the mitigation measures in this document regularly identify the plan itself as the mitigation, rather than its contents. This is not appropriate under CEQA, and must be changed in the final document.

Implementation plans required as mitigation should be substantially completed and reviewed as part of the CEQA process. Moreover the sheer number of plans makes it essential that some explanation of how they would be implemented and coordinated be included in the EIR. Finally, the use of plans as mitigation consistently ignores the question of how they will be funded in order to ensure that they perform as needed to mitigate identified impacts.

Environmental Council Comments
America's Cup DEIR Case No. 2010.0493E
Revised August 29, 2011

2. CHAPTER 3 - PROJECT DESCRIPTION

One of the fundamental requirements of CEQA is that an EIR must present an "accurate, stable and finite project description." County of Inyo v. City of Los Angeles (1981) 124 Cal.App.3d 1, 9 [[an]"accurate, stable and finite project description is the sine qua non of an informative and legally sufficient EIR."].)

The project description in the DEIR fails to meet this fundamental requirement of CEQA.

COMMENT PD-1: THE PROJECT DESCRIPTION IS "FUNDAMENTALLY" FLAWED.

The underlying problem with the project description is that it attempts to include too many individual components under the so-called "project" description, which are not "related." As described in the first paragraph of Chapter 3:

"This environmental impact report (EIR) addresses two related projects: (1) the proposed 34th America's Cup (AC34) - a series of international sailing events to be hosted by the City and County of San Francisco in summer-fall 2012 and summer-fall 2013, and (2) the proposed James R. Herman Cruise Terminal and Northeast Wharf Plaza (Cruise Terminal) project. These projects are subject to review under the California Environmental Quality Act (CEQA) and a number of subsequent local, state, and federal approvals. As described in greater detail below, given the relationship in the proposed location and use of certain project facilities, this EIR analyzes the individual impacts and where applicable, the combined impacts, of these projects." (DEIR, p. 3-1) [Emphasis added.]

06 [PD-1]

- In its description of the project in the opening paragraph quoted above, the DEIR fails to mention as a part of the project the long-term development rights that the Host Agreement provides to Event Authority. 07 [PD-1]
- The DEIR fails to include in its discussion of the project "Background" (DEIR, pp. 3-1–3.2) any discussion of the history of the proposed Northeast Wharf Plaza as a planned public open space in the Port's WLUP and BCDC's Special Area Plan since 2000. 08 [PD-1]
- The DEIR states that "[t]he proposed improvements to complete the cruise terminal and wharf plaza would be built out after the AC34 races are concluded," (DEIR 3-2) but fails to say when completion will occur. Please add to the project description the estimated completion dates for the cruise terminal and wharf plaza. 09 [PD-9]
- The DEIR omits from its discussion of the project "Background" on pages 3-1 – 3.2 the fact that the Port Commission had approved a cruise terminal design at Piers 27-29 before the Port knew about that the America's Cup Event Authority wanted to utilize Piers 27-29 for its "Village." Please explain the coincidence of the Port Commission's official action to change its approval of a prior design and to select the currently proposed "preferred design concept" on December 14, 2010, the exact same date that the Board of Supervisor approved the Host and Venue Agreement with the America's Cup Event Authority, LLC (Event Authority). 10 [PD-1]
- Except for the Host and Venue Agreement that provides that the America's Cup Event Authority can use Piers 27-31 for its main viewing area and America's Cup Village, the DEIR fails to show how these two projects are "related." 11 [PD-1]

- The DEIR's description of the project background (DEIR, p. 3-1 – 3.2) reveals the underlying problem with the project description. The City decided to combine the America's Cup race events with construction of a new cruise ship terminal - a different CEQA project that has been on the City's wish list for the last two decades – and with the Northeast Wharf Plaza – another separate CEQA project that has been identified as a planned public open space in the Port's Waterfront Land Use Plan (WLUP) and BCDC's Special Area Plan (SAP) for over a decade. Then, apparently in order contribute to the capital necessary to build the cruise terminal part of project, the City granted long term development rights on multiple waterfront properties to the America's Cup Event Authority. The City then combined all of the above components into the so-called "project" description for purposes of CEQA review. In trying to simultaneously achieve these many competing objectives and cram them all into a single EIR, the project description fails to meet one of the basic requirements of CEQA and, consequently, proper environmental review cannot be achieved. 12 [PD-1]

COMMENT PD-2: THE PROJECT DESCRIPTION FAILS TO ADEQUATELY DESCRIBE THE AMERICA'S CUP EVENT AUTHORITY, THE PROJECT SPONSOR THAT WILL, IN EFFECT, BECOME THE LONG-TERM STEWARD AND BENEFICIARY OF THE SAN FRANCISCO WATERFRONT.

DEIR, p. 3-1:

> "On December 14, 2010, the Board of Supervisors for the City and County of San Francisco (City) approved a 34th America's Cup Host and Venue Agreement (Host Agreement) with the America's Cup Event Authority, LLC (Event Authority) and America's Cup Organizing Committee (ACOC), as the City's formal bid to host AC34. On December 31, 2010, the Golden Gate Yacht Club (GGYC) selected San Francisco as the host city for AC34. Hereafter, the City and Event Authority are referred to as the project sponsors for AC34." [Emphasis added.]
>
> "...[t]he Event Authority is responsible for organizing and managing AC34, as well as marketing AC34 and identifying potential partners." (Footnote 3, DEIR, p. 3-1) 13 [PD-1]

As described in the DEIR, in addition to the provisions for AC34, the Host Agreement provides Event Authority with long-term development rights after the conclusion of the AC34 race events, including the long-term lease of Piers 30-32, the long-term lease or transfer of fee title to Seawall Lot 330, and certain options rights pursuant to which the Event Authority may obtain additional long-term leases over Pier 26, Pier 28, Pier 19, Pier 191/2, Pier 23, Pier 29, and the Open Water Basins at Piers 32-36 (Brannan Street Wharf Open Water Basin) and Piers 14-22 ½ (Rincon Point Open Water Basin). (DEIR, p. 3-90)

The DEIR says in its description of the America's Cup yachting competition that:

> "GGYC [Golden Gate Yacht Club], as the current defender of the America's Cup, is entrusted under the Deed of Gift with the organization of AC34. ... GGYC and Club Nautico appointed the America's Cup Event Authority to organize and manage AC34, in association with America's Cup Race Management (ACRM)" (DEIR, p. 3-25)

The America's Cup Event Authority, LLC, will in effect become a steward and beneficiary for the development of the Port's properties on the northern waterfront. The EIR is inadequate and incomplete without the following information:

COM-107

Environmental Council Comments
America's Cup DEIR Case No. 2010.0493E
Revised August 29, 2011

- Please describe and clarify the structure of the America's Cup Event Authority, LLC, including all members of the limited liability company, its officers, ownership interests and corporate partners to the entity. 13 [PD-1] cont.
- Moreover, will the Event Authority's development rights to the San Francisco waterfront transfer with the "Deed of Gift" of the America's Cup as a registered trust document in the Supreme Court of the State of New York in Albany, NY. 14 [PD-1]

COMMENT PD-3: THE DEIR FAILS TO DESCRIBE THE ROLE OF "AMERICA'S CUP RACE MANAGEMENT" IN THE AC34 EVENTS.

Footnote 19, DEIR, p. 3-25:

> "America's Cup Race Management is a perpetual entity established to provide for independent, professional and neutral race management. ACRM is primarily charged with running the Cup races, the America's Cup World Series, and the shoreside logistics of the event."

Since ACRM is in charge of managing the race and of all "shoreside logistics of the event," please explain why ACRM is not a project sponsor and discuss how mitigation measures adopted pursuant to this EIR will apply to ACRM. 15 [PD-1]

Also, please describe ACRM's role and responsibilities in the proposed "full program of exhibits, educational programs, entertainment, commercial attractions, and services that would surround the race events and the experience." (DEIR, p. 3-31)

COMMENT PD-4: PROJECT OBJECTIVES ARE DEFECTIVE.

The various project components that the City has improperly combined into a single "project" for the purposes of this EIR have resulted in two separate sets of Project Objectives in the DEIR, which reflect competing, yet interdependent, project objectives, severely limiting consideration of alternatives for any one of its components. In addition, Implementation Plans, which are not included in the DEIR and do not even exist, are improperly included as Project Objectives. 16 [PD-2]

1. The interdependency of objectives is reflected in Port's objectives for the Cruise Terminal component of the project:

> "Integrate the design and construction of the Cruise Terminal project with the proposed AC34 race facilities and operations." (DEIR, p. 3-4) 17 [PD-2]

The DEIR fails to adequately explain why this is a legitimate objective for providing a cruise terminal vs. fulfilling a requirement of the City's Host and Venue Agreement, which agreement did not undergo environmental review prior to its execution.

2. Two of the Port's objectives for the for the Cruise Terminal component of the project are competing: 18 [PD-2]

"Maintain shoreside power in a new, modern cruise terminal facility to promote and expand access and use of San Francisco□ s electrical grid while ships are in port to avoid cruise ship diesel emissions." (DEIR, p. 3-4)

The DEIR fails to point out that fulfilling its other objective to "[i]ntegrate the design and construction of the Cruise Terminal project with the proposed AC34 race facilities and operations" competes with its objective to "maintain shoreside power," since the shoreside power (located on Pier 27) will have to be removed by the Port prior to and during the entire 2 year AC34 race series and subsequent cruise terminal construction period, resulting in air quality impacts in violation of state regulation. On page 3-22, the DEIR says:

"In 2010, in partnership with the San Francisco Bay Area Air Quality Management District, the Port completed installation of a shoreside power system (12mega-watt [MW] substation) at Piers 27-29 for cruise ships. The shoreside power system enables cruise ships to plug into the City's electrical grid while in port, instead of relying on the vessel's diesel generators for power, thereby substantially reducing diesel emissions. Pursuant to state regulation, the Port has scheduled all shoreside-power-capable cruise ships to be berthed at Pier 27 beginning in 2011. The Port expects 20 to 22 cruise ships to use Pier 27 in the 2011 cruise season." [Emphasis added.]

Given the that diesel emissions have been substantially reduced since the installation of the shoreside power system, removing the shoreside power system during the race events and the subsequent construction period will substantially increase diesel emissions, resulting in a significant impact on air quality that should require the EIR to look at alternatives to removing the power system during the races, which could alternative locations for the AC Village (i.e. not integrating design and construction of the Cruise Terminal with the proposed AC34 races).

18 [PD-2] cont.

3. Three of the AC34 Project Objectives are specifically dependent on "Implementation Plans" or "guidelines" that are not included in the DIER and have not yet been developed.

DEIR, p. 3-3:

"• Facilitate access to and from desired destinations based on smart transportation strategies presented in the America's Cup People Plan for the racing teams, event personnel, event sponsors, members of the media, and spectators, while satisfying the access needs of residents, workers, and visitors not associated with the races

• Emphasize natural resource stewardship by incorporating sustainability principles in the planning and management of all race events and operations, including zero waste strategies identified in the America's Cup Waste Management Plan

• Implement navigational and operational safety guidelines for race team, support, and spectator boat activities associated with the America□s Cup and the America□s Cup World Series that

19 [PD-7]

Environmental Council Comments
America's Cup DEIR Case No. 2010.0493E
Revised August 29, 2011

meet United States Coast Guard regulations, the America's Cup Protocol, and the safe limits of event boats and equipment; minimize conflicts with existing commercial maritime activities; and establish sustainable environmental practices and standards to help protect the ecological health of San Francisco Bay "

Since none of these "Plans" or "guidelines" are included in the DEIR, nor have been developed (and will subject to the approval by the Event Authority anyway), these Project Objectives are inappropriate. Until these plans and guidelines are developed and included in a draft EIR, it is not possible for the DEIR to consider whether there are project alternatives that would meet these objectives. Further, once these plans and guidelines are developed, a determination must be made as to whether they are more appropriately considered as part of the project description or as mitigation for the AC34 event's impacts.

The DEIR also fails to disclose that the EIR consultant that is preparing this EIR is also preparing the "Implementation Plans" calling into question whether they should be independently prepared and/or reviewed.

19 [PD-7] cont.

4. Providing future long-term development rights to America's Cup Event Authority is a potentially significant environmental impact subject to review under CEQA and is not an appropriate Project Objective.

DEIR, p. 3-3:

"• Encourage investment in infrastructure upgrades on Port property required to stage the America□s Cup and the America□s Cup World Series, for which the City would provide commensurate future long-term development rights on Port of San Francisco properties as contemplated under the Host Agreement"

The impacts of the City's obligations under the Host Agreement to provide the Event Authority with future long-term development rights on San Francisco's waterfront is the a principal subject of review under this EIR, and as such should not be listed as an AC34 Project Objective.

20 [IO-5, PD-2]

COMMENT PD-4: CITY'S FAILURE TO PREPARE A JOINT EIS/EIR FOR THE AMERICA'S CUP EVENT.

According to the project description, a large number of the project sites, or venues proposed to accommodate AC34 are under the jurisdiction of the GGNRA, NPS and the Presidio Trust (DEIR, pp. 3-23 – 3-24), and most of these sites are within designated historic districts and/or contain sensitive historic resources. "Detailed consultation with the United States Coast Guard and the Federal Aviation Administration would be required." (DEIR, p. 3-28)

Since, a significant number of federal approvals and permits must be obtained in order for AC34 to use these proposed venue sites (a list of required federal approvals is included on page 3-115 of the DEIR), environmental review pursuant to the National Environmental Quality Act (NEPA) and consultation pursuant to Section 106 of the National Historic Preservation Act (NHPA) will be required. Notably,

21 [INT-2]

many of the project's potentially significant impacts to federally owned or designated historic resources are within the Area of Potential Effect (APE). 21 [INT-2] cont.

Given these facts, the DEIR should explain the City's rationale for not preparing a joint EIS/EIR.

COMMENT PD-5: VISITATION ESTIMATES.

The DEIR states that the "[r]anges of peak day attendance were estimated based in part on visitor attendance data that were available for previous America's Cup events held in Valencia, Spain and Auckland, New Zealand" (DEIR, p. 37)

However, the DEIR also states that: 22 [PD-5]

> "whereas past America's Cup races have been held in open ocean waters and away from populated areas, San Francisco Bay provides a natural amphitheater that would enable land- based viewing by spectators of AC34 from the surrounding shores around the Bay. This is a substantial difference from previous events because equal access opportunities to engage with the races would be provided to the general public. (DEIR, p. 3-26)

Were the races in Valencia, Spain and Auckland, New Zealand, upon which the estimates were based, held in open ocean waters or in populated areas where spectators could watch from the shore? How were these differences taken into consideration by AECOM's in its visitation estimates for AC34?

COMMENT PD-6: EVENT AUTHORITY'S INVESTMENT IN UPGRADING PIERS 30-32.

DEIR, 3-90: 23 [GEN-2, GEN-5]

> "Subject to various contingencies, the Host Agreement states that if the Event Authority invests at least $55 million in venue infrastructure before the Match race, the City will enter into Disposition and Development Agreements (DDAs) with the Event Authority, under which the City will agree to lease to the Authority Piers 30-32 for a term of 66 years, and Seawall Lot 330 for a term of 75 years and, if the public trust is lifted, transfer to the Event Authority fee title to Seawall Lot 330 under a separate purchase and sale agreement (Transfer Agreement). The Host Agreement includes a balancing process under which the Event Authority may obtain additional long-term leases for one or more of the short-term venues if the cost of the pre-Match Authority Infrastructure Work exceeds $55 million."

The DEIR describes very substantial permanent upgrades and repairs to Piers 30-32 necessary to support the proposed AC34 event access and team base operations. (DEIR p. 3-43) Will the Event Authority's investment in these upgrades and repairs count toward the $55 million in venue infrastructure under the Host Agreement?

Given the condition of Piers 30-32, please discuss why investment should be made in these Piers instead of in historic piers. Discuss why it would not be more consistent with BCDC policies to remove Piers 30-32.

COM-109

Environmental Council Comments
America's Cup DEIR Case No. 2010.0493E
Revised August 29, 2011

Please discuss whether the Port or the Event Authority would be responsible for paying for dredging the Brannan Street Open Water Basin. Would that "investment" count towards the $55 million in venue infrastructure under the Host Agreement? 23 [GEN-2, GEN-5] cont.

COMMENT PD-7: NO SPECIFIC PLANS FOR PERMANENT OR TEMPORARY IMPROVEMENTS TO HISTORIC PIERS 26 & 28.

The DEIR contains no specific plans for the proposed permanent improvements to be made at Piers 26 and 28 to support the AC34 event. (DEIR, p. 3-45) Nor does the DEIR contain specifications for the installation of temporary docks and gangways and their connections to their pier aprons. (DEIR, p. 3-67) Absent specific plans, potentially significant impacts on these historic resources cannot be properly evaluated in this EIR or mitigated. (See Comments on Chapter 5, Section 5.5.) 24 [CP-4]

COMMENT PD-8: NO SPECIFIC PLANS FOR PERMANENT OR TEMPORARY IMPROVEMENTS TO HISTORIC PIER 19.

The DEIR contains no specific plans for the proposed permanent improvements to be made at Pier 19 to support the AC34 event. (DEIR, p. 3-54) Nor does the DEIR contain specifications for the installation of temporary docks and gangways and their connections to its pier aprons. (DEIR, p. 3-70) Absent specific plans potentially significant impacts on this historic resource cannot be properly evaluated in this EIR. (See Comments on Chapter 5, Section 5.5.) 25 [CP-4]

COMMENT PD-9: "EDUCATION PROGRAMS" WILL NOT PREVENT IMPACTS TO SPECTATOR VENUE LOCATED AT CRISSY FIELD.

The DEIR describes the proposed spectator area at Crissy Field as the largest of the proposed spectator venues in 2012 in terms of geographic area and seating accommodations.

DEIR, p. 3-54: 26 [PD-6]

> "Crissy Field would contain a range of facilities and services, including up to two large tents (similar in size to those described for Marina Green, above) and a variety of smaller temporary structures housing hospitality services, general merchandise sales, food and beverage concessions, sponsor displays, a first aid station and restrooms. The venue would also include education programs that offer partnership opportunities with the NPS to increase understanding of the history, setting, and environment of Crissy Field and the GGNRA as well as the sport of sailing."

The DEIR fails to describe the proposed education program in any detail, including who and when it would be developed, who would pay for it, and how it will help to prevent damage to the sensitive habitat located between the Bay and the "largest of the proposed spectator venues in 2012."

COMMENT PD-10: NO SPECIFIC PLANS FOR PERMANENT OR TEMPORARY IMPROVEMENTS TO HISTORIC PIER 23.

The DEIR contains no specific plans for the proposed permanent improvements to be made at Pier 23 to support the AC34 event. Nor does the DEIR contain specifications for the proposed installation of temporary docks and gangways and their connections to the pier aprons. (DEIR, p. 3-70) Absent specific 27 [PD-6]

plans potentially significant impacts on this historic resource cannot be properly evaluated in this EIR. (See Comments on Chapter 5, Section 5.5.) 27 [PD-6] cont.

COMMENT PD-11: NO PLANS IN THE DEIR FOR THE MODIFICATIONS TO HISTORIC PIER 29.

The DEIR contains no plans at all for the proposed demolition of the easternmost portion of the historic Pier 29 shed, for the proposed new east and corner wall for the Pier 29 shed, for the seismic strengthening and upgrading of its superstructure, on repairs or any of the other proposed repairs or improvements to be made to Pier 29 to support the AC34 event. (DEIR, p. 3-73) Absent specific plans, the significant impacts on this historic resource cannot be properly evaluated in this EIR. (See Comments on Chapter 5, Section 5.5.) 28 [CP-3]

COMMENT PD-12: DEIR Improperly Defers the Development of Mitigation Measures.

The Project Description lists and summarizes various Implementation Plans. (DEIR, pp. 3-87 to 3-90) According to the DEIR, "[t]he Host Agreement provides that the City, in consultation with the Event Authority, would develop a number of event-related implementation plans to support AC34 during both the 2012 and 2013 events." (DEIR p. 3-87). Some of these, e.g., the People Plan, are critical to the DEIR and will discuss impacts and alternatives, and make recommendations that are expected to become mitigation measures and/or be adopted by the City as part of the event approvals. These are not included in the DEIR, as they are still in the process of being developed, and some will only be completed in 2012. Since these final Plans are not included in the DEIR, the DEIR cannot fully describe the environmental effects of the project nor the potential mitigations.

In order for these Implementation Plans to provide mitigation for the project's significant impacts, the plan needs to be complete and included in the DEIR, which none of them are. Since they are not included in the DEIR, the DEIR's reliance on them, as either a part of the project description or for mitigation purposes, is improper. 29 [IO-4c, PD-7]

Specific Comments as to three of these Implementation Plans:

People Plan:

The statement in the DEIR that the "People Plan is included as a part of the project for review in this EIR" (DEIR. p. 3-87) is inaccurate. Not only is the People Plan not included in the DEIR, but such plan is still a draft form in the process of being developed. Only a Draft People Plan, dated 3-31-11, along with "Progress Reports #1 and #2 are available on the City's website. <http://oewd.org/Development_Projects-Americas_Cup.aspx>

Parks Event Operations Plan:

Although relied on as mitigation for impacts to cultural resources on federal and state park lands, there is no evidence in the DEIR that once it is developed it is capable of being implemented or that

the federal, state and local agencies with jurisdiction over lands containing sensitive historic resources would agree with the Event Authority as to the contents of a "Parks Event Operations Plan" or that the agencies would have the resources – staffing and funding – to effectively implement such a plan. Nor is there information in the DEIR as to how this mitigation measure would actually be implemented and enforced. 29 [IO-4c, PD-7] cont.

Team Base Operations Manual:

The Team Base Operations Manual, which does not exist, and is to be developed in the future by the Event Authority in consultation with the Port (DEIR, p. 3-89), is relied on by this DEIR to mitigate for the potentially significant environmental impacts to biological resources, water quality, recreation, and other impacts from hazardous materials that could result from the fabrication, manufacturing, processing and maintenance practices conducted by AC34 race teams (DEIR, 3-48).

COMMENT PD-13: THE DEIR IS DEFECTIVE IN PURPORTING TO ANALYZE THE IMPACTS OF FUTURE LONG TERM DEVELOPMENT RIGHTS SINCE THERE ARE NO SPECIFIC DEVELOPMENT PROPOSALS.

DEIR, p. 3-90:

"There are no specific development proposal [sic] under consideration at this time at any of the sites, nor has it been decided which of the sites would be proposed for long-term development. In the absence of such information, for purposes of this EIR, an assessment was conducted to identify a conceptual outline of possible development programs that could be considered for the candidate development sites, taking into consideration: (1) the WLUP; (2) public trust considerations including public access standards; (3) the San Francisco Planning Code and Zoning Map; and (4) consistency with the Secretary's Standards." [Emphasis added.] 30 [IO-5]

The DEIR is defective in purporting to analyze the impacts of the long-term development rights over a significant number of the Port's properties to be transferred pursuant to the Host Agreement to the Event Authority's development organization, even though the EIR clearly states there is no detailed project specific information on these future projects.

The DEIR must be revised and recirculated to provide program-level analysis of all projects for which there is no detailed, project-specific information in this EIR. A project-level EIR must be prepared in the future for each project once the specific details of the project are known.

COMMENT PD-14: AMENDMENTS TO BCDC SPECIAL AREA PLAN FOR THE PROJECT (AC34 AND THE CRUISE TERMINAL). 31 [GEN-5]

1. Given the option rights granted to the Event Authority over the Rincon Point Open Water Basin and the Brannan Street Wharf Open Water Basin, and the multiple references throughout the DEIR to the Event Authority's future plans to develop them as marinas (See Table 3-13 on page

3-91 and the detailed discussions of these Open Water Basins on pages 3-92 to 3-93), why is the future development of these Open Water Basins for marinas not included in the list of proposed amendments to the BCDC Special Area Plan? (DEIR, p. 3-93)

2. The DEIR states that:

"Fill removal is included in the scope of issues that would be reviewed by BCDC in the context of the above proposed amendments to the Special Area Plan for the Cruise Terminal project, and potentially for the proposed amendments for the AC34 project. The Port has identified possible fill removal sites that may be considered in BCDC's public process." (DEIR, p. 3-111)

Instead of fill removal at the sites identified by the Port, the following long-term public benefits should be considered in the context of any proposed amendments to the Special Area Plan: **31** [GEN-5] cont.

1. Implement the project to convert the triangle parking lot at Fisherman's Wharf into a public open space plaza in furtherance of existing plans. This could be done in conjunction with AC34 to provide an alternative viewing area.

2. Restore the Municipal Pier in Aquatic Park. This could be required as mitigation for AC34 impacts to recreational areas and could also provide a public viewing area for AC34.

3. Require the removal of the restaurant building behind the Ferry Building to create a public open space, eliminating an eyesore and opening up views to the Bay. This open space could serve as another viewing area for AC34.

4. Create a new open space park from Seawall Lot No. 321 across from the Exploratorium Project at Piers 15-17.

COMMENT PD-15: COMMENTS ON CRUISE TERMINAL DESCRIPTION

1. The DEIR must include a discussion of how long the shoreside power system would be removed from service give the proposed 2-year use of the site for the AC Village before the cruise terminal construction can be completed. (DEIR, p. 3-109) **32** [PD-9]

2. Figure 3-36 (DEIR, p. 3-103) shows "staff parking." The DEIR should discuss why that is necessary to the function of the cruise terminal. Also, please explain what "CBP" parking is. **33** [PD-9]

3. The DEIR should discuss the necessity for 17 bus parking spaces. Based on the Port's experience, discuss how often that many buses are required at one time. Please discuss the basis for the design, size and number of spaces proposed for the 3-acre Ground Transportation Area (GTA). **34** [PD-9]

4. The "Cruise Terminal Security Fencing," described in the EIR as an operable array of metal gates" will directly impact the Northeast Wharf Plaza. (DEIR, p. 3-104) The visual impact of this is not adequately shown in the DEIR, in particular, Figure 3-37 is not helpful at all. However, the array of small tables depicted on the proposed Northeast Wharf Plaza, it shows that there are no existing plans for the programming of this public space. **35** [PD-9]

Environmental Council Comments
America's Cup DEIR Case No. 2010.0493E
Revised August 29, 2011

5. The DEIR say that the GTA could be used for temporary installations, and holding of outdoor public gatherings approximately 100 times a year. (DEIR, p. 3-109). Given that there will be an open space in excess of 3 acres at the end of Piers 27-29 and a new 2.5 acre public plaza, please discuss why an additional 3 acres in the GTA would ever be needed for special events. **36** [GEN-5]

6. The DEIR fails to provide information in its discussion of the construction of the cruise terminal how long it will take to complete the final phase of construction following the AC34 events. (DEIR, p. 3-109) **37** [PD-9]

7. The DEIR fails to discuss how much cruise business the Port will lose during AC34 since "the Port would have limited ability for Piers 27-29 to serve as a secondary berth for cruise ships." (DEIR, p. 3-109) How many will it be able to accommodate in comparison to 2011? **38** [GEN-5]

COMMENT PD-16: DEIR CONTAINS INSUFFICIENT INFORMATION ON PROPOSED NORTHEAST WHARF PLAZA PROJECT **39** [PD-9]

1. The DEIR says that "[i]n concert with the cruise terminal facility, the Port also proposes to construct the Northeast Wharf Plaza..."(DEIR, p. 3-94) Please add additional information as to when it will be built and with what funds.

2. The DEIR contains no designs or programming for the Northeast Wharf Plaza, saying that "it will undergo review by the public and BCDC and City waterfront design committees." (DEIR, p. 3-109) Absent specific plans the Wharf Plaza cannot be properly evaluated in this EIR. (See Comments on Chapter 5, Section 5.5.) **40** [PD-9]

COMMENT PD-17: ERRATA

DEIR, p. 3-6: The DEIR fails to mention in the description of Piers 30-32 that Red's Java House is an historic resource. The DEIR should also state that it is currently in operation and identify the lessee. **41** [PD-1, CP-4]

DEIR, p. 3-23: The first sentence on this page is incomplete. **42** [PD-1]

DEIR, p. 3-32: The DEIR does not explain kind of watercraft a "chase boat" is. **43** [PD-1]

DEIR, p. 3-116: The DEIR must include the San Francisco Historic Preservation Commission under National Historic Preservation Act Section 106 compliance. Under the San Francisco Charter, the HPC must review any agreement or memorandum entered into pursuant to a 106 Consultation. In addition, any new construction or alteration to any landmark building or new construction or alterations within the Northeast Waterfront Historic District requires a Certificate of Appropriateness from the HPC. **44** [CP-2]

3. SECTION 5.3 - AESTHETICS

COMMENT AE-1: DEIR ASSUMES WITHOUT EVIDENCE THAT GUEST BERTHING IN OPEN WATER BASINS WOULD HAVE NO ADVERSE IMPACT ON A SCENIC VISTA.

Provision of AC34 temporary berthing in open water basins at Piers 26-28, Piers 23-27, Piers 28-30, Piers 32-36 (Brannan Street Wharf Open Water Basin) has both an individual and cumulative affect on open water views.

Both the Port of San Francisco Waterfront Land Use Plan Design and Access Element (pages 42-49) and The BCDC San Francisco Waterfront Special Area Plan (SAP) emphasize the importance of views, and in particular views of the water. The SAP in particular carefully dictated the creation of a regularly spaced network of open water basins so that visitors to the waterfront could enjoy views of the Bay from several locations. **45** [AE-1]

While the SAP found that some mooring of ships in the Open Water Basins could be beneficial, the SAP did not envision that three out of four open water views would be thus blocked. As John King said in his article[1] expressing concern about the mooring plan for the open water basin between Piers 14 and 32 "The proposal would add a 1,300-foot-long, 12-foot-wide floating dock to the "open water basin venue," reached by gangplanks at either end. A diagram shows 26 vessels moored to the dock, none shorter than 100 feet and 10 with hulls extending 265 feet from stem to stern." If only the DEIR would provide such succinct information. Unfortunately, the DEIR fails to provide any visuals of what views would be available at each of the open water locations, including the "team bases" at Pier 30 and in the open water basin from 32-36. The aerial views provided tell us nothing about the experience at ground level.

The same comments apply to proposed berthing in Aquatic Park and Marina Green. **46** [AE-1]

In addition, it's difficult to understand the extent of the impact without information about the usage of Herb Caen Way. Our visual impression is that it is an extremely popular area, particularly in South Beach. The DEIR should provide information on Herb Caen Way users to identify the severity of the impact. **47** [AE-7]

COMMENT AE-2: DEIR ASSUMES WITHOUT EVIDENCE THAT LONG-TERM DEVELOPMENT OF MARINAS AT BOTH SOUTH BEACH OPEN WATER BASINS WOULD HAVE NO SIGNIFICANT VISUAL IMPACT

The DEIR assumes that long-term development will follow all currently applicable plans and policies. Unfortunately, the Host & Venue Agreement did not. In that agreement, the Mayor agreed to allow **48** [IO-05, AE-2]

[1] *"Cup's yacht plan threatens our wide-open views"* John King, urban design critic, San Francisco Chronicle, August 22, 2011

COM-112

Environmental Council Comments
America's Cup DEIR Case No. 2010.0493E
Revised August 29, 2011

long-term use of either or both of the Piers 14-22 or Piers 32-26 Open Water Basins for development as a marina. The DEIR is correct that it is and was not in the City's power to make such an agreement; however, now that it has been made the DEIR must analyze the long-term effect of that decision and propose mitigation. **48** [IO-5, AE-2] cont.

COMMENT AE-3: THE DEIR FAILS TO ANALYZE POTENTIAL AESTHETIC IMPACTS, BOTH SHORT AND LONG-TERM, TO THE PORT'S EMBARCADERO NATIONAL REGISTER HISTORIC DISTRICT

The Port's Embarcadero National Register Historic District and its individual contributing resources are significant visual resources that could be substantially degraded in quality by the construction of the proposed Pier 27 Cruise Terminal and by other temporary and permanent improvements proposed in connection with the race Event and the associated long-term development rights. With regard to aesthetic impacts on these nationally recognized visual resources, the EIR must: **49** [AE-8]

- Take into consideration the aesthetic impact of the proposed design of the Pier 27 Cruise Terminal on the National Register Historic District within which it is located, as well as on the adjacent historic Piers 29 and 31. The EIR must evaluate how the elements of the proposed Cruise Terminal design are compatible with the materials, features, size, scale, proportion and massing of the nearby historic bulkhead buildings and pier sheds, and with the characteristics of the surrounding historic district.
- Evaluate how the proposed removal of "a portion" of the Pier 29 shed and construction of a new 160,000 sq ft. viewing platform or "outdoor amphitheater" at the eastern end of Pier 27-29 will impact the aesthetics of the NRHD, when viewed from the Bay as well as other vantage points. **50** [AE-8]
- Identify, describe and evaluate all temporary and permanent improvements proposed to historic Piers 19, 23, 26 and 28, for their potential impacts on the aesthetics of the NRHD. **51** [AE-8]
- Analyze the cumulative degradation on the visual character of the NRHD from the Cruise Ship Terminal, the removal of a portion of Pier 29 and other AC34 improvements, together with all past, present, and reasonably anticipated future projects within the historic district. **52** [AE-8]

COMMENT AE-4: THE DEIR FAILS TO CONSIDER ALTERNATIVES TO REDUCE THE VISUAL IMPACT ON THE PORT'S EMBARCADERO NATIONAL REGISTER HISTORIC DISTRICT

Consider alternative designs for the proposed Pier 27 Cruise Terminal that would be more compatible with the materials, features, size, scale, proportion and massing of the nearby historic bulkhead buildings and pier sheds, and with the defining characteristics of the NRHD. **53** [AL-2]

Consider alternatives to chopping off Pier 29 to create a viewing platform for the race event. Alternatives could include (1) providing temporary public viewing platforms by using barges or cruise **54** [AL-1]

ships; and (2) eliminating or reducing the amount of proposed viewing space at the end of Piers 27-29 by adding a large spectator viewing area behind the Ferry Building by removing the non-historic World Trade Club building, which would provide significant permanent public open space in connection with the Ferry Building Farmer's Market.

Avoid removal of historic resources and require all alterations and changes to be compatible with the defining characteristics of the NRHD and consistent with the Secretary's Standards, as determined through an adequate and open public review process.

54 [AL-1] cont.

COM-113

4. SECTION 5.4 - POPULATION AND HOUSING

COMMENT PH-1: FAILURE TO ADEQUATELY ANALYZE AC34'S IMPACTS RELATED TO DISPLACEMENT OF TENANTS AND REDUCTION IN RENT-CONTROLLED UNITS

The DEIR's conclusion that the America's Cup events would not displace existing housing units is not supported by facts contained in the DEIR. (Impact PH-2, DEIR, p. 5.4-15).

The DEIR contains no information regarding the number of rental units in nearby neighborhoods where the proposed AC34 race events could cause the displacement of current occupant tenants and a substantial reduction in the number of rent-controlled apartments and flats in these areas.

Without a thorough and complete analysis of this potentially significant impact on housing from the estimated 5,490,000 visitors expected to come to San Francisco for the events, the DEIR is inadequate and incomplete.

A recent article published in The Bay Citizen[2] revealed the following facts that must be considered in the DEIR's analysis of the AC34's potential impacts on the City's affordable housing stock:

> "According to census figures released last month, the practice of converting private residences into what are effectively hotels is widespread. In some popular San Francisco neighborhoods, there are now more housing units dedicated to "seasonal, recreational or occasional use" than there are available apartments for rent.
>
> "The census counted 5,564 vacation homes in San Francisco — up from 3,764 in 2000 and 1,509 in 1990...In one section of Russian Hill, 176 second homes were available for rent, compared with 115 vacant apartments, the census showed."
>
> According to Ted Gullicksen, executive director of the San Francisco Tenants Union, "It's become a very active speculative industry to be affirmatively turning rental apartments into hotels."

55 [PH-1]

[2] "Surge in SF Vacation Rentals Squeezes Residents," by Aaron Glantz on July 21, 2011 in BayCitizen http://www.baycitizen.org/search/?q=Surge+in+Vacation+REntals&x=36&y=4

"Christine Haw, of the San Francisco Planning Department, said the trend was "deeply troubling." Haw further said that: "They are taking away from the city's affordable housing stock and the amount of units available for permanent residents."

The EIR must examine the number of housing units rented to tenants vs. those rented to tourists in each census tract in the landside neighborhoods proximate the AC34 venues, including North Beach, Telegraph Hill, Russian Hill, Barbary Coast, the Northeast Waterfront and others. This information is currently available on an interactive map on line at: http://www.baycitizen.org/census-2010/interactive/interactive-map-vacation-rentals-san/. **55** [PH-1] cont.

- The DEIR must analyze how the America's Cup will further the trend to convert the city's rental apartments into tourist hotels.

According to the estimates contained in the DEIR, there will be a total of 85 race days in 2013, with and a total of 5,490,000 visitors. And on a "super peak race day" AC34 could generate between 400,000 and 500,000 visitors. (DEIR, p 3-37) **56** [PH-1]

- The DEIR must examine the number of hotel rooms available in San Francisco in comparison to the expected number of visitors.

The Bay Citizen article[3] further states that: "A three-decade-old ordinance forbids San Francisco property owners from renting out a private residence for fewer than 30 days without acquiring an expensive permit to convert the property to tourist use. But the measure is essentially unenforced." **57** [PH-1]

- The DEIR must include this ordinance under the "Regulatory Framework" section (beginning at DEIR, p. 5.4-8) and if it true that it is "essentially unenforced," the DEIR must examine other ways to adequately mitigate the impacts of the AC34 events on the city's supply of rental housing stock.

COMMENT PH-2: THE DEIR FAILS TO ADDRESS A MAJOR CUMULATIVE HOUSING IMPACT THAT THE AMERICA'S CUP WILL HAVE ON SAN FRANCISCO'S HOUSING THAT WILL ACCELERATE THE LOSS OF AFFORDABLE RENTAL HOUSING UNLESS SPECIFIC MITIGATION MEASURES ARE PUT IN PLACE IMMEDIATELY. **58** [PH-1]

The America's Cup DEIR is to be commended for clearly and accurately presenting the "Housing Needs Allocation for San Francisco, 2007-2014" in **Table 5.4-4**. This gives the reader a sense of how much housing the City must build in each income category to meet its housing goals as set forth in the 2009 Housing Element.

[3] Ibid.

Environmental Council Comments
America's Cup DEIR Case No. 2010.0493E
Revised August 29, 2011

However, we disagree with the following conclusion in the DEIR that the project will have a less than significant impact on housing, just because no housing is located at any of the project sites.

DEIR, P. 5.4-15:

"Impact PH- 2: Construction and operation of the America's Cup facilities and events would not displace existing housing units or create substantial demand for additional housing. (Less than Significant) **58** [PH-1] cont.

No existing housing is located at any of the project sites. Consequently, construction and operation of the America's Cup facilities and events would not displace any existing housing units."

The conclusion that the construction and operation of facilities related to the America's Cup *will not displace any existing housing*, unequivocally **wrong**. Holding the America's Cup in San Francisco will have a major impact on San Francisco's Housing and Population, one that will result in the displacement of existing housing by fueling a relatively new and growing trend to convert existing rental apartments to short-term rentals (hotel rooms).

Comments recently submitted on the 8 Washington Street/Seawall Lot 351 DEIR provide a detailed analysis of this issue as well as a description of the mitigations necessary to prevent this from happening. As these comments are relevant to the proper CEQA analysis of the AC34 Project and its cumulative impacts on housing, we set them forth as follows:

A. THE DEIR IGNORES THE GENTRIFICATION/DISPLACEMENT IMPACTS OF THIS PROJECT THAT WILL RESULT IN THE LOSS OF HUNDREDS OF RENT CONTROLLED UNITS IN THE GOLDEN GATEWAY BY ENCOURAGING THE FURTHER HOTELIZATION OF ITS 1,200 RENTAL APARTMENTS

The other 'partner' in the 8 Washington Street/SWL 351 project is Mr. Timothy Foo, who, with other investors, bought Golden Gateway from Perini Corp. about 20 years ago. Only 20% of the 8 Washington site is on Port land, while 80% of the site is on land owned by Mr. Foo and currently occupied by Golden Gateway's community recreation center. **59** [PH-1]

In addition to violating the original Golden Gateway redevelopment agreement that required Perini (and future owners) to preserve Golden Gateway's active recreation center in exchange for deep discounts in land prices Redevelopment charged for the land used to build the Gateway Commons condos and the Golden Gateway Tennis and Swim Club, for some time now Mr. Foo has also been converting rent controlled apartments in the Golden Gateway to short term rental and hotel use (e.g. on one floor of a high-rise tower, a third of the units are rented this way).

These conversions have been well documented by the Golden Gateway Tenants Association, the Affordable Housing Alliance and the San Francisco Tenants Union. While such conversions are not unique to the Golden Gateway Center (see attached *Bay Citizen* article), they are illegal and violate the city's zoning, rent control and apartment conversion ordinances.

The 8 Washington DEIR must address this issue by posing the following questions to Mr. Foo and incorporating his answers into the revised DEIR. He must provide this information because as the

owner of 80% of the underlying land that comprises the 8 Washington site, he has had and continues to have a direct financial stake in this project. He must be asked the following questions:

1. How many of Golden Gateway's 1,200 rental apartments are currently being used as hotel rooms and/or short-term rentals and/or rented to persons other than those using them as primary residences or directly related to the person residing there (e.g. corporations, business organizations, apartment brokers)?

2. Has Mr. Foo consulted with either the Rent Board or the Planning Department as to the legality of his use of apartments in Golden Gateway as hotel rooms or short-term rentals under applicable city zoning codes, the San Francisco Rent Control ordinance or the city's Apartment Conversion Ordinance?

Upon receiving and analyzing this information from Mr. Foo, the DEIR must then answer the following questions:

- *Is the 'hotelization' of Golden Gateway and other large apartment complexes likely to increase with the approval of 8 Washington, a development that:*

a. *builds 165 high-end luxury condos ($2.5 - $10 million each) on Mr. Foo's property—creating a much more upscale environment adjacent to his Golden Gateway apartments;*
b. *provides Mr. Foo with $10-15 million (what he's likely to be paid for his 80% of the site) that can be used to upgrade his rent controlled apartments at Golden Gateway in order to attract even more higher paying hotel users; and*
c. *if no mention of these conversions is made in the DEIR, after these written comments have been submitted, will send a clear message to Mr. Foo and others that the City has **no intention** of enforcing its own zoning, rent control and apartment conversion ordinances, thereby encouraging even more conversions.*

59 [PH-1] cont.

If conversions like those at Golden Gateway are not stopped soon, **the city is at risk of losing thousands of residential apartments** in its downtown neighborhoods. The coming of the America's Cup heightens the likelihood of this happening.

- *What kind of mitigations would prevent further "hotelization" of Golden Gateway's 1,200 rent controlled apartments and other apartments in San Francisco?*

With larger apartment complexes such as Golden Gateway, Parkmerced and Fox Plaza, owners get around current prohibitions on renting apartments for less than 30 days as hotel rooms (an action that is legally prohibited by the San Francisco Apartment Conversion Ordinance) by leasing them for more than 30 days to third parties (e.g. corporations, apartment brokers). These intermediaries then rent the apartments for anywhere from a day or two to a few weeks to a month or two.

A simple amendment to the Apartment Conversion Ordinance that changes "you cannot rent an apartment for less than 30 days" to "you cannot rent **or occupy** an apartment for less than 30 days" would prevent Golden Gateway and others from renting apartments for anywhere from a few days to up to four weeks. Preventing 30-60 day rentals would be a more complicated matter.

COM-115

The 8 Washington DEIR must address how constructing 8 Washington could encourage, help fund and accelerate Mr. Foo's conversion of the 1,200 units at Golden Gateway from rent controlled apartments to hotel use as well as the impacts this has on city's housing goals as set forth in San Francisco's 2009 Housing Element and RHNA goals. If we are converting housing to non-housing (hotel) uses as fast or faster than we are creating new housing units, we will never dig ourselves out of our current housing crisis and that outcome would have catastrophic impacts on the environmental and economic sustainability of San Francisco as a city.

A major new event such as the America's Cup, that will bring hundreds of thousands of additional tourists and visitors to San Francisco, cannot help but exacerbate this problem, increasing the likelihood that people who own rental apartments in San Francisco's Northeast waterfront, North Beach, Telegraph Hill, Russian Hill and throughout the eastern part of the city will stop renting their apartments as apartments and convert them to hotel and short-term rental use.

As the recent *Bay Citizen* article (attached) points out, this problem is increasing as apartment brokers, like the woman interviewed in the article, are convincing landlords that they can make THREE TIMES as much money renting out rent-controlled apartments as hotel rooms than renting them out as apartments. The America's Cup crowds will only add gasoline to this fire that is consuming thousands of desperately needed rental apartments in San Francisco. The good news is that there are mitigations that could slow these losses. But they must be implemented **now** as part of the build-up to the America's Cup.

The America's Cup DEIR cannot avoid this problem by arguing that *"if there is no housing on the project site"* then the project *"would not displace any existing housing units."* The DEIR must consider and analyze the significant impact upon the housing demand that the AC34 event will induce, by encouraging the 'hotelizaton' of existing housing units and the resulting displacement impacts, and recommend the implementation of effective mitigation measures such as those described above.

59 [PH-1] cont.

COMMENT PH-3: THE DEIR UNDERESTIMATES THE LOSS OF PERMANENT JOBS DUE TO DISPLACEMENT OF CURRENT TENANTS ON PORT PROPERTY.

The DEIR identifies 77 tenants and a total of 81 leaseholders occupying the proposed AC34 sites (Page 5.4-6), but Table 5.4-2 identifies only 17 tenants, and the total number of employees is "not known" but estimated as 365. This lack of detail is unacceptable, particularly given that the Port is listed a project sponsor. DEIR must identify all businesses being relocated, and provide more accurate information about employment.

The Port has stated at public meetings that they will not be able to relocate all displaced tenants on Port property. Since the DEIR shows evictions beginning in early 2012, the project sponsor should be able to provide more accurate information about which tenants will be relocated on Port property. Those that will not be relocated should be surveyed for the likelihood of a) relocating outside of San Francisco, and b) reducing staffing due to cost of relocation.

60 [PH-2]

As currently written, the employment impacts and related housing impacts are under-estimated due to incomplete information on the number of permanent employees at the proposed project site, an unwarranted assumption that most jobs would relocate within San Francisco, and the potential that relocation will reduce the number of jobs within these businesses. 60 [PH-2] cont.

COM-116

O-ACEC

Environmental Council Comments
America's Cup DEIR Case No. 2010.0493E
Revised August 29, 2011

5. SECTION 5.5 - CULTURAL RESOURCES

COMMENT CP-1: IMPROPER LIMITATION OF THE PROJECT'S AREA OF POTENTIAL EFFECTS.

The CEQA Area of Potential Effects (DEIR at pp 5.5-2, 5.5-39 & 5.5-40) fails to include the Telegraph Hill Historic District and Coit Tower. These areas should be included and described, and the potential "alterations in the character or use" of these historical resources that could result from crowds of people seeking to watch the event from these locations must be considered, including physical impacts to the historic wooden steps, boardwalks and historic gardens of the Telegraph Hill HD, and to landscaped areas in Pioneer Park surrounding Coit Tower. These potential impacts should be considered, but are not, in the DEIR. 61 [CP-1]

COMMENT CP-2: FAILURE TO INCLUDE A REVIEW OF THE 8 WASHINGTON EIR.

The recent Draft EIR for the 8 Washington Street/Seawall Lot 331 Project must be added to the list of "Recent EIRs/EISs," and reviewed in connection with the preparation of this EIR. (DEIR at p. 5.5-39.) The historic and cultural resource impacts of the proposed 8 Washington project were not considered in connection with the proposed project as to these projects' cumulative impacts on the setting and context of the Embarcadero National Register Historic District and on the historic seawall. In addition, construction impacts of the 8 Washington, anticipated to occur during the same period as the America's Cup races, were not considered cumulatively with the proposed project. 62 [CP-11]

COMMENT CP-3: DESCRIPTIONS OF HISTORIC RESOURCES ARE INADEQUATE AND INCOMPLETE.

At DEIR, p. 5.5-39, the DEIR states that: "Much of the following resource description, history and assessment of integrity have [sic] been provided by the Embarcadero Historic District nomination." The DEIR fails to disclose where the rest of the description, history and assessment of integrity came from.

The DEIR's description of the Port's Embarcadero National Register Historic District is inadequate and incomplete without setting forth in full and/or incorporating by reference the *Port of San Francisco Embarcadero Historic District National Register of Historic Places Registration Form*, dated May 2006, as to the character-defining features of the District as a whole and of each contributing resource that could be affected by the proposed project, including the AC 34 event, the proposed new cruise ship terminal, the Northeast Wharf Plaza, and all potential long term development under the Host Agreement. 63 [CP-4]

The comments below point out some of the informational inadequacies in the DEIR's descriptions of individual architectural historic resources: 64 [CP-3]

Pier 29: The DEIR's description of the Pier 29 transit shed (DEIR at pp 5.5-56 and 5.5-57) fails to include enough information to assess the proposed project's potential impact to this historic resource. It lacks the following information:

- The original width and length of the Pier 29 shed (160 feet wide by 762 feet long)[4]
- Exactly how many feet of its east wall were removed and how many bays were removed at the east end of the south wall during the 1965 modifications made for it to meet the end of Pier 27
- What would be required to restore the Pier 29 transit shed to its original length? Did the Port ask Architectural Resources Group to consider this alternative pursuant to the Secretary's Standards?

The DEIR discloses that: "In 1994, following the Loma Prieta earthquake, the Pier 27 substructure was seismically retrofitted and repaired. The work included batter-pile connection repair/retrofit, and installation of shear plates connecting Piers 27 and 29 to enable these two structures to respond as a single unit, thereby eliminating the need for seismic retrofit of the Pier 29 substructure." (DEIR at p 3-22.)

- The DEIR should further disclose whether the proposed seismic retrofit of Pier 29 would be required only as a result of the proposed separation of Pier 29 from Pier 27 (i.e. as a result of the proposed demolition of Pier 27). Under the proposed project which of the two project sponsors (the Port or the America's Cup Event Authority) would be responsible for the cost of the proposed seismic retrofit of Pier 29?
- Assuming that the 1994 retrofit was paid for with FEMA money, would the Port be obligated to return these FEMA monies as a result of the proposed project that would requiring Pier 29 to be retrofitted again?

64 [CP-3] cont.

Pier 29 Annex (Belt Railroad Office Building): In the description of this building's integrity on page 5.5-58, the DEIR incorrectly states that: "The rear addition, although of a lesser architectural quality, ***may have*** acquired significance in its own right because it was constructed within the period of significance." [Emphasis added] According to the National Register nomination, the Pier 29 Annex, including the rear addition, built during the period of significance, is listed on the National Register of Historic Places as a contributor to Port's Embarcadero Historic District. As a result, the removal of the rear addition would impact on the significance of this historic resource. The apparent intent of the words "may have acquired significance" in the DEIR's description of the Belt Railroad Office Building is revealed later in the DEIR's description of the proposed Northeast Wharf Plaza project -- the Port is considering the removal of the rear addition and wants to avoid a finding of "significant effect" on this historic resource.

65 [CP-3]

[4] *Historic Resources Report for Piers 27, 29 and 31*, dated September 30, 1999, updated March 25, 2011 (DRAFT) prepared for the Port by Architectural Resources Group.

Environmental Council Comments
America's Cup DEIR Case No. 2010.0493E
Revised August 29, 2011

The Seawall and Bulkhead Wharf: The DEIR fails to disclose projects that have been completed since the designation of the Embarcadero Historic District that have contributed to a loss of integrity to sections of the Bulkhead Wharf or portions of the Seawall. The DEIR also fails to disclose projects that have been approved or are currently proposed that the will result in the demolition of sections of the Bulkhead Wharf or portions of the Seawall, including (1) the recently approved Brannan Street Wharf Project, which will result in the demolition of Bulkhead Wharf Sections 11, 11a and 12, all contributors to the Embarcadero Historic District; (2) the proposed 8 Washington Street Project which would demolish a section of the Old Seawall, which is eligible for the National Register, or may impact sections of the Seawall contributing to the Embarcadero Historic District.

66 [CP-4]

COMMENT CP-4: DESCRIPTIONS OF THE REGULATORY FRAMEWORK FOR THE PROTECTION OF HISTORIC RESOURCES ARE INADEQUATE AND INCOMPLETE.

National Historic Preservation Act: The paragraph on page 5.5-65 as to how adverse effects on historical properties are resolved pursuant to Section 106 of the *National Historic Protection Act* is incomplete with out adding that under *San Francisco Charter Sec. 4.135*, prior review and comment by San Francisco's Historic Preservation Commission is required on any memorandum of agreement or programmatic agreement developed pursuant to Section 106 consultation where the city is a signatory.

67 [CP-2]

San Francisco Historic Preservation Commission and Planning Code Articles 10 & 11: The paragraph under the heading *of San Francisco Historic Preservation Commission and Planning Code Article 10 and 11* (DEIR at p. 5.5-72), is incomplete and inaccurate. It fails to accurately describe the authority and role of the Historic Preservation Commission and misstates the standards applied by the HPC to evaluate impacts on historic resources. Following the first sentence of the paragraph under 5.5.2.3, add the following:

> "In 2008, the voters amended the San Francisco Charter to create an independent Historic Preservation Commission (HPC). In addition to the authority to recommend landmark and historic district designations to the Board of Supervisors, the HPC has the authority to approve, disapprove, or modify certificates of appropriateness for work to designated landmarks or within locally designated historic districts. The HPC has the authority under the San Francisco Charter to review and comment upon environmental documents under the CEQA and NEPA for all proposed projects that may have an impact on historic or cultural resources, including all historic Port of San Francisco properties whether or not they are designated as landmarks or districts under the Planning Code. The Charter also designates the HPC to act as the City's local historic preservation review commission for the purposes of the Certified Local Government (CLG) Program, including the authority to recommend properties for inclusion in the National Register of Historic Places, to review federal tax act projects, and to review and comment on federal undertakings under the National Historic

68 [CP-2]

> Preservation Act (NHPA). The Charter also requires prior HPC review and comment on any agreements or memorandums under the NHPA where the City is a signatory prior to any approval action on such agreement, which may be required in connection with federal permits necessary to accomplish the America's Cup events."

This paragraph must also be changed to correct the DEIR's reference to the criteria used by the HPC and the Planning Department to evaluate impacts on historic resources. The DEIR incorrectly states that such impacts are evaluated based on the "Significance Criteria" contained in DEIR Section 5.5.3.1. This must be corrected to state that impacts are evaluated based on the Secretary of the Interior's Standards and pursuant to any more specific standards contained in Articles 10 or 11, or in the specific legislation designating the landmark or district. **68** [CP-2] cont.

The Port's Review Procedures for Alterations to Historic Resources:
Port Commission Resolution No. 04-89. Because the DEIR relies extensively on Port Commission Resolution No. 04-89[5] as the primary mitigation measure for all impacts identified in the DEIR as substantial adverse changes in the significance of historic resources in the Embarcadero National Register Historic District, we have reviewed its provisions in relation to the statements and assumptions made in this DEIR.

The DEIR states at page 5.5-73:

> "Port Commission Resolution No. 04-89 requires that projects uphold the historic character of the Embarcadero Historic District, consistent with the *Secretary of the Interior's Standards for the Treatment of Historic Properties* (Secretary's Standards). In evaluating projects in the Embarcadero Historic District, qualified preservation staff and consultants generally reviews [sic] projects according to the following approach." (DEIR at p 5.5-73) [Emphasis added.]

69 [CP-2]

Our review of Resolution No. 04-89, approved by San Francisco Port Commission on October 26, 2004, reveals that it contains little specific guidance as to the Port's review of projects affecting historic resources within the Embarcadero Historic District except as to pier and wharf substructures. As to pier and wharf substructures, a detailed 26 page document titled *"Historic Preservation Review Guidelines for Pier and Bulkhead Wharf Substructures,"* was attached to the resolution as an exhibit and included as an appendix to the National Register nomination report. The DEIR separately describes these *Guidelines for Pier and Bulkhead Wharf Substructures* on page 5.5-74, stating that changes to these substructures

[5] Port Commission, City and County of San Francisco, Resolution No. 04-89, Adopted October 26, 2004, is available at: http://www.sfport.org/ftp/uploadedfiles/about_us/divisions/planning_development/EmbarcaderoRegisterNominationIntroMaterials.pdf

Environmental Council Comments
America's Cup DEIR Case No. 2010.0493E
Revised August 29, 2011

"require a more rigorous case-by-case review" to determine consistency with the Secretary's Standards and that:

> "The case-by-case review required for more invasive projects involving significant alteration, demolition, and reconstruction analyzes the specific conditions of the substructure and the details of each project including the overall compatibility of each proposal with the aesthetic quality, public access, and active use of the pier and bulkhead wharf substructures." (DEIR at p 5.5-74)

Although the *Guidelines for Pier and Bulkhead Wharf Substructures* refers to "Historic Preservation Review Guidelines"[6] as already in being in place when Resolution 04-89 was adopted "to define how the Secretary of the Interior's Standards for Rehabilitation (Secretary's Standards) should be interpreted and applied to the historic resources with the District, to ensure its responsible management and stewardship," our research has revealed that none existed at the time Resolution No. 04-89 was adopted, no such "Historic Preservation Review Guidelines" were appended to the National Register nomination report, and according to the Port's qualified preservation staff member, none has ever existed. **69** [CP-2] cont.

Therefore, contrary to statements appearing elsewhere in the DEIR, Port Commission Resolution 04-89 does not contain specific requirements as to *"all major projects,"* in the Embarcadero National Register Historic District, nor does it *"establish a review process to confirm such compliance"* except as to Pier and Bulkhead Wharf Substructures.

The *"general approach"* for minor and major projects set forth in the DEIR on page 5.5-73 under the heading of "Port Commission Resolution No. 04-89" was not established by Resolution 04-89. This *"general approach"* appears to have been created only for the purposes of this DEIR and is not an adequate mitigation measure for all major and minor projects because it is not an "existing regulatory requirement."

[6] The following is the language contained in the introductory paragraphs on page 1 of the *Historic Preservation Review Guidelines for Pier and Bulkhead Wharf Substructures*: "As part of the preparation of the Port of San Francisco Embarcadero Waterfront National Register Historic District nomination, the Port has developed Historic Preservation Review Guidelines (Guidelines) to define how the Secretary of the Interior's Standards for Rehabilitation (Secretary's Standards) should be interpreted and applied to the historic resources within the District, to ensure its responsible management and stewardship...For projects affecting historic resources within the Embarcadero Historic District that are subject only to the Port's review and approval the Port conducts its review in conjunction with use of Historic Preservation Guidelines, where applicable, to direct actions that comply with the Secretary's Standards. All projects undergo case-specific review to determine the appropriate application of the Guidelines and other related Port design reviews. The Port maintains qualified historic preservation expertise on staff and may work with other qualified historic preservation professionals to review projects for consistency with the Secretary's Standards and any applicable Guidelines." [Emphasis added.]

COMMENT CP-5: THE FACTS CONTAINED IN THE DEIR DO NOT SUPPORT THE CONCLUSION THAT IMPACTS TO HISTORIC RESOURCES FROM THE AC34 EVENT WOULD BE LESS THAN SIGNIFICANT WITH MITIGATION.

Impact CP-1: The DEIR concludes that impacts on historic resources from construction and operation of the proposed AC34 event would be less than significant with mitigation. (DEIR, p. 5.5-76) For the reasons set forth below, the facts contained in the DEIR do not support this global conclusion. Not only is project-specific information as to individual AC34 venues absent, but also the impacts are minimized and proposed mitigation measures are inadequate.

COMMENT CP-5A: IMPACTS TO AC34 VENUES IN THE PORT'S EMBARCADERO HISTORIC DISTRICT

70 [CP-4]

1. The DEIR contains no detailed project-specific information on many of the temporary and permanent improvements to historic resources within the Embarcadero National Register Historic District. Without detailed, project-specific information, adequate environmental review of the project is not possible. This lack of information is confirmed by the DEIR as follows:

> "Alterations to numerous waterfront piers, buildings, and other structures that contribute to the historic significance of the Embarcadero Historic District would occur as a result of both temporary and permanent improvements for the AC34 events. They are described below for each facility. The exact design of many of the temporary and permanent improvements is unknown at this point because the designs are not final. Such installations could permanently damage historic architectural resources if not completed in a proper manner." [Emphasis added.] (DEIR at p. 5.5-76)

2. The mitigation measures proposed in the DEIR are inadequate or do not yet exist and there is no evidence they will actually be implemented. The DEIR describes these "mitigation measures" as follows:

> "These impacts can be avoided by applying Port Commission Resolution 04-89, which requires all major projects within the Embarcadero Historic District comply with the Secretary's Standards and establishes a review process to confirm such compliance, thereby mitigating any potentially significant impacts to a less-than-significant level. Implementation of mitigation measures that incorporate design-based performance criteria that are intended to ensure compliance with the Secretary's Standards, including performance measures/criteria developed by the Port of San Francisco specifically for the proposed project, would also mitigate potentially significant impacts on historic resources to a less-than-significant level." [Emphasis added.] (DEIR at p. 5.5-76)

71 [CP-4]

We have the following comments on these mitigation measures:

- First, adequate mitigation measures cannot be developed until the project has been adequately described, which it has not yet been according to the DEIR. 72 [CP-4]
- Second, as discussed above, Port Commission Resolution 04-89 does not contain requirements as to *"all major projects,"* nor does it *"establish a review process to confirm such compliance"* except as to Pier and Bulkhead Wharf Substructures. 73 [CP-4]
- Third, to the extent that *"performance measures/criteria"* to be developed by the Port in the future *"specifically for the proposed project"* are intended to provide mitigation for the project's impacts, they must be complete and included in the DEIR, otherwise this DEIR is informationally deficient. 74 [CP-4]
- Finally, the mitigation measures are dependant upon adequate review by the Port's preservation staff. We are aware of only one member of the Port staff trained in historic preservation. Given the extremely large number of individual projects discussed in this DEIR that will be happening simultaneously within a very compressed time frame, it would seem very unlikely if not impossible that the proposed mitigation measures could actually be implemented. 75 [CP-4]

COMMENT CP-5B: EVALUATION OF PROJECT-SPECIFIC IMPACTS TO AC34 VENUES IN THE EMBARCADERO HISTORIC DISTRICT

According to DEIR's evaluation of project-specific impacts to AC34 venues, the proposed temporary and permanent improvements will result in significant impacts to individual historic resources within the Embarcadero National Register Historic District, which the DEIR then concludes are "less than significant" with mitigation measures. The comments below identify many inadequacies in the DEIR's evaluation of project-specific impacts, including informational deficiencies, improperly minimizing the potential impacts, and relying on inadequate mitigation measures. 76 [CP-4]

Impacts to Bulkhead Wharves. (DEIR, p 5.5-77 to 79)

The DEIR reveals that, although potentially significant permanent impacts may result from AC34 to the bulkhead wharves, there is currently no detailed, project-specific information as to AC34's impacts on Sections 3 (1000 ft), 43 (1000 ft) and 10 of the bulkhead wharf, which are contributors to the Embarcadero Historic District. As admitted in the DEIR:

> "Because the structural analysis and engineering approaches available to achieve code compliance are continuing to be developed, this impact analysis assumes a range of improvements, from ordinary maintenance and repair to demolition and reconstruction of the bulkhead wharf." (DEIR, p 5.5-79)

77 [CP-4]

Remarkably, the DEIR concludes, through a convoluted process, that all possible yet-to-be determined impacts to these resources -- ranging from ordinary maintenance and repair to demolition and reconstruction -- can be mitigated to "less than significant." If the first mitigation measure doesn't work or is too expensive, the developer can opt for the second, less restrictive one, as follows:

First, the DEIR concludes that consistency with the Port's Guidelines [i.e. *"Historic Preservation Review Guidelines for Pier and Bulkhead Wharf Substructures* contained in Resolution 04-89] would mitigate the impacts to less than significant:

> "Because ordinary maintenance, repair and alteration to bulkhead wharves is reviewed for consistency with the Port's Guidelines and therefore considered consistent with the Secretary's Standards it would have a less than significant impact." (DEIR, p 5.5-78)

If the proposed work is inconsistent with the Guidelines and, therefore, with the Secretary's Standards, no problem, the DEIR provides another way to mitigate significant impacts, as follows:

> "However, to address the potential significant impacts that may result from the AC34 project, and in the event the demands of the program make compliance with the Port's guidelines infeasible, implementation of Mitigation Measure M-CP-1a (Bulkhead Wharf Substructure Review Process) would reduce the potential impacts associated with demolition and reconstruction of the bulkhead wharf to less than significant." (DEIR, p 5.5-78)

77 [CP-4] cont.

Mitigation Measure M-CP-1a (set forth at DEIR p. 5.5-96) creates a whole new, less restrictive review process than the Port's *Review Guidelines for Pier and Bulkhead Wharf Substructures*. This mitigation measure is inappropriate for the following reasons:

- First, this mitigation measure concedes that the project description is incomplete. Adequate environmental review, and the development of appropriate mitigation measures, is dependant on an adequate project description. Until the structural analysis has been completed and engineering approaches developed for each affected section of the bulkhead wharf, and until the potential impacts and alternatives are reviewed pursuant to CEQA, proposing mitigation measures is premature.

78 [CP-9a]

- Second, this mitigation measure is structured so that it would allow the developer to determine if "the demands of the program" may "make compliance with the Port's guidelines infeasible" and introduces the idea that the "maintenance and repair activities" may include "demolition." In other words, if the developer decides it is too expensive or time consuming to follow the Port's *Guidelines for Pier and Bulkhead Wharf Substructures*, they can simply opt out.

79 [CP-9a]

- Third, the DEIR concedes that "the structural analysis and engineering approaches" that are needed to provide a complete project description have not been "developed" and justifies this by stating: "this impact analysis assumes a range of improvements." An agency is not permitted to avoid providing a complete project description for purposes of assessing the significance of the project's

80 [CP-9a]

Environmental Council Comments
America's Cup DEIR Case No. 2010.0493E
Revised August 29, 2011

impacts based on a rationale that the project may consist of a "range of improvements."

80 [CP-9a] cont.

- The DEIR fails to explain why it is necessary to create this mitigation measure. The Port's *Guidelines for Pier and Bulkhead Wharf Substructures* (pg 6) clearly provide a review process and guidelines for "Alterations of Contributing Resources" that would apply to portions of the pier and bulkhead wharf substructures, or portions thereof, not otherwise within the scope of ordinary maintenance and repair or replacement in kind.

81 [CP-9a]

- Describe and include a discussion of the applicability of *National Park Service Preservation Brief No. 16, The Use of Substitute Materials on Historic Building Exteriors,* which is attached to and incorporated into the Port's *Guidelines for Pier and Bulkhead Wharf Substructures*. Discuss the application of this Brief to a situation where removal and replacement of portions of the pier and bulkhead wharf substructures would be necessary.

82 [CP-9a]

- Explain why *National Park Service Preservation Brief No. 16* an all other National Park Service Preservation Briefs would not apply to the Port's review of all repair, maintenance and alterations to historic structures.

83 [CP-9a]

Groundborne Vibration from Pile Driving Activities (DEIR, p. 5.5-79)

The DEIR discloses that groundborne vibration generated from pile driving activities during construction near Red's Java House at Piers 30-32, near Pier 28, and from the repair of bulkhead wharf Section 10 could exceed the groundborne vibration criteria for fragile structures, such as **Red's Java House** and **Pier 28**, could be a potentially significant impact.

- What other historic resources could be impacted by groundborne vibration generated from pile driving activities during construction of the AC34 venues?

84 [CP-4]

- Regarding **Mitigation Measure M-NO-3** (DEIR, p 5.7-40), please explain and discuss what "corrective measures" would be implemented to minimize the risk to historic structures in the event that monitoring results show unacceptable ground movement. The mitigation measure is completely silent on what such measures would entail.

85 [CP-4]

Relocation of Teatro Zinzanni to SWL 324 (DEIR, p. 5.5-87)

The DEIR's discussion of the proposed relocation of Teatro Zinzanni to Seawall Lot 324, which is located in the Northeast Waterfront Historic District, contains an inaccurate and misleading statement and mitigation measure. On page 5.5-87, the DEIR states that:

> "If Teatro Zinzanni relocated to this site, the Port typically would issue building permits without a

86 [CP-9d]

Certificate of Appropriateness or review by the Historic Preservation Commission. Due to a lack of site design and development plans or details for the potential relocation to this site, it is not certain that the WDAC review process could yield an project design that is compatible with the Northeast Waterfront Historic District to avoid a significant impact. To mitigate this potentially significant impact, **Mitigation Measure M-CP-1d** (Protection of the Northeast Waterfront Historic District from Teatro Zinzanni Relocation) is identified to apply if Teatro Zinzanni opts to relocate to SWL 324. This measure would require Teatro Zinzanni to secure a Certificate of Appropriateness following design review and approval by the Historic Preservation Commission, consistent with Article 10 of the Planning Code prior to the execution of a Port lease for the site." **86** [CP-9d] cont.

Please explain why "the Port typically would issue building permits without a Certificate of Appropriateness or review by the Historic Preservation Commission." This is inconsistent with San Francisco Charter Section 4.135, which provides that: "The Historic Preservation Commission shall approve, disapprove, or modify certificates of appropriateness for work to designated landmarks or within historic districts." Therefore, Historic Preservation Commission review is already required before the Port can issue building permits.

Impacts to Piers 29, 29½ (DEIR, p. 5.5-88 & 89)

According to the DEIR, the proposed AC34 event includes the following temporary and permanent improvements to these historic resources:

Temporary Improvements

- Interior improvements to Pier 29 transit shed to accommodate: food concession, merchandising, ticket sales, and restroom facilities
- Installation of floating docks and gangways connected to the north apron

Permanent Improvements - Phase I

- Demolition of the remnants of the former end bay of Pier 29 transit shed
- Construction of new Pier 29 transit shed end wall
- Structural repair/upgrade of Pier 29 transit shed
- Seismic strengthening of the Pier 29 transit shed
- Apron repair and fendering

Permanent Improvements to Piers 29 and 29½. As to the proposed "permanent improvements" to Piers 29 and 29½ from AC34, the DEIR explains them as follows:

"The proposed demolition of Pier 27 shed would result in the need to rationalize the eastern, outshore end of Pier 29 to maintain its structural integrity and utility as a functioning pier shed, both in the short-term to accommodate AC34 use, and in the long-term for the Pier 27 Cruise Terminal

project's proposed provisioning area." (DEIR, p. 5.5-88)

This so-called "rationalization" of the end of the historic pier shed, which would include the removal of historic materials "such as roof monitors, structural columns, roof trusses, cargo doors and steel sash windows," was determined have a less-than-significant impact on this historic resource based on an analysis "by a consulting architectural historian, who determined this activity would be consistent with the Secretary's Standards." (DEIR, p.5.5-89) **87** [CP-3]

The information in the DEIR and in the consulting architectural historian's reports in the DEIR Appendix, is inadequate to support the DEIR's conclusion of a "less-than-significant impact:" **88** [CP-3]

- First, there is no specific design in the DEIR for the "rationalization" of the end of the historic Pier 29 shed. Without detailed, project-specific information, adequate environmental review of the proposed project is not possible.

- Second, exactly what "activity" was analyzed by a "consulting architectural historian"? We have reviewed all of the Historic Resources Supporting Information included in Vol. 3 Appendices to the DEIR, including the reports titled "Design of International Cruise Terminal, Pier 27 Project Consistency with Secretary's Standards Memorandum" (prepared by Architectural Resources Group, Inc. on June 6, 2011) and "Design Guidelines for Northeast Wharf Plaza, Pier 27 Project Consistency with Secretary's Standards Memorandum" (prepared by Architectural Resources Group, Inc. on June 6, 2011), and find no specific designs for the "rationalization" of the eastern, outshore end of Pier 29. In addition, we have obtained and reviewed the "Historical Resources Report on Piers 27, 29 and 31" (prepared by Architectural Resources Group, Inc. on September 30, 1999) and an update of that report dated March 25, 2011. Again, these reports contain no specific designs for the "rationalization" of the eastern, outshore end of Pier 29. **89** [CP-3]

- Third, the footnote to the "findings" listed in the DEIR (on pages 5.5-88 and -89) references the Port's *Guidelines for Pier and Bulkhead Wharf Substructures*, Port Commission Resolution No. 04-89. Why? **90** [CP-3]

- An adequate and complete analysis of the application of the Secretary's Standards to a proposal to "return Pier 29 to a freestanding building" (in this case as a result of the proposed demolition of Pier 27) should have considered an alternative to restore the end of Pier 29 to its historic appearance and length by the removing later additions that connected it to Pier 27 and replacing its missing elements. **91** [CP-3]

- Did the Port ask its consulting architectural historian to analyze this restoration alternative pursuant to the Secretary's Standards? The original appearance of Pier 29's transit shed and bulkhead **92** [CP-3]

building, and its association with Pier 31, are clearly documented in the above-referenced "Historical Resources Report on Piers 27, 29 and 31" (prepared by Architectural Resources Group, Inc. on September 30, 1999). 92 [CP-3] cont.

- Please discuss how restoring the original length of Pier 29 to match Pier 31 would enhance the physical form of the Embarcadero National Register Historic District. Consider that, per the 1999 Historic Resources Report referenced above, Pier 29's transit shed and bulkhead building were "built in conjunction with Pier 31's transit shed and bulkhead building in 1918 forming a complex of two piers both designed in the Neo-classical architectural style." The sheds were originally the same length. 93 [CP-3]

- Please discuss how restoring Pier 29 to its earlier appearance as discussed above would comply with (1) the Secretary's Standard No. 6 provides that *"Replacement of missing features shall be substantiated by documentary, physical, or pictorial evidence"* and (2) the National Park Service's Management Policy No. 5.3.5, which provides for "(3) restoration to earlier appearances by the removal of later additions and replacement of missing elements." (DEIR, p. 5.5-66) 94 [CP-3]

- Pier 29 shed was originally 762 feet long. How long is it proposed to be following the proposed "rationalization"? How many bays did the Pier shed originally have? How many bays will it have following the proposed "rationalization"? 95 [CP-3]

- The DEIR should discuss how restoring Pier 29 to its original length and appearance would conflict with Project objectives. Discuss any conflicts with the Port's objectives. Discuss any conflicts with the Event Authority's objectives. 96 [CP-3]

- The DEIR describes the following three different future long-term uses for Pier 29:

  1. The DEIR states that the Pier 29's long-term use is to serve as a provisioning area for the cruise terminal. (DEIR, p. 5.5-89)
  2. Table 3-13 in the DEIR (DEIR, p. 3-9) shows that the long-term development uses for Pier 29 under the Host Agreement is for 6,700 sq feet of Retail/Commercial and 37,000 sq ft of Entertainment & Assembly/Commercial.
  3. In several other places in the DEIR, the use of Pier 29 is described as serving as a pedestrian way from The Embarcadero to the proposed 160,000 sq ft open area at the end of the piers.

  Which one is it? 97 [CP-3, IO-5, PD-9]

- As the future use for Pier 29 is not yet know, the EIR should evaluate how restoring Pier 29 to its original length and appearance could enhance its potential uses. 98 [CP-3]

Structural Repair and Seismic Upgrades to Pier 29. Other "permanent improvements" proposed for historic Pier 29 would include "structural repair and seismic upgrade of the transit shed as is necessary to maintain the structural integrity of the superstructure." The DEIR is inadequate in that it contains no detailed, project-specific information on these repairs and upgrades, stating, as usual, that:

> "The specific designs for these improvements are not yet fully developed due to a lack of a detailed existing conditions survey. This activity could have a significant adverse impact on the historic significance of Pier 29."

Absent detailed, project-specific information, adequate environmental review of this component of the project is not possible. Nonetheless, the DEIR concludes with its usual reliance on Port Commission Resolution 04-89 as "proof" that this component of the project would have a less-than-significant impact on Pier 29. 99 [CP-3]

- The DEIR should disclose and discuss in this section the potential impacts on Sections 3 and 4 of the historic bulkhead wharf that could result from the proposed structural repair and seismic upgrade of the Pier 29 transit shed, as well as the potential impacts on the Pier 29 shed and bulkhead building from the proposed structural upgrades to these two sections of the bulkhead wharf. Please explain how these are related and whether structural upgrades to Sections 3 and 4 of the historic bulkhead wharf would be required absent the proposed Pier 29 upgrades. 100 [CP-3]

- Given the FEMA-financed work completed in 1994 to repair and seismically retrofit Pier 27 and connect Piers 27 and 29 to enable these two structures to respond as a single unit, thereby eliminating the need for seismic retrofit of the Pier 29 substructure (DEIR at p 3-22), is the proposed structural repair and seismic upgrade of the Pier 29 only necessary because of the proposed demolition of the Pier 27 shed? 101 [CP-3]

Temporary Improvements to Piers 29 and 29½. As to the proposed "temporary improvements" to Piers 29 and 29½ from AC34, even though the DEIR says that there are no designs for these improvements, it assures us that, they "would be highly reversible because they can be easily disassembled, utilize materials that are less durable and constructed for a short lifespan; therefore, the potential impacts from this component of the project would be less than significant." (DEIR, p. 5.5-88) The DEIR cannot make this unsupported assumption when designs for these improvements do not yet exist. 102 [CP-3]

Impacts to Piers 26 & 28, Piers 19 & 19½ and Pier 23.

Numerous temporary and permanent improvements are proposed to be made to each of these historic resources to accommodate the AC34 events, including team base operations, dedicated parking, hospitality services (food, beverages, merchandizing, etc.), storage and/or ancillary uses; media 103 [PD-6, CP-4]

operations/broadcasting equipment and the installation of berthing facilities for AC34 races, support boats and private spectator boats. However, as mentioned above, the DEIR contains no detailed project-specific information on any of these AC34-related temporary or permanent improvements to historic resources within the Embarcadero National Register Historic District. 103 [PD-6, CP-4] cont.

Permanent Improvements to Piers 26 & 28, Piers 19 & 19½ and Pier 23. Subchapter 5.5 (Cultural Resources) of the DEIR is informationally deficient as to proposed "permanent improvements" to these piers. Even though a list of numerous permanent AC34-related improvements to these and other historic piers is included in Table 3-9 (DEIR, p. 3-42) and Table 3-10 (DEIR p. 3-64) in Chapter 3, no mention is even made of any permanent improvements to Piers 26 & 28, Piers 19 & 19½ and Pier 23 in Subchapter 5.5 (Cultural Resources), where the text says that only the temporary improvements to these piers will be made. 104 [PD-6, CP-4]

- A complete and adequate description of these improvements and their potential impacts must be included and analyzed in Chapter 5 of the DEIR where the project's impacts, including impacts to historic and cultural resources, is located. This is a serious omission rendering the DEIR misleading and inaccurate.

Temporary Improvements to Piers 26 & 28, Piers 19 & 19½ and Pier 23. Even though there are (1) no designs for any of the numerous temporary AC34 improvements proposed for these piers, and (2) "all temporary installations would be in place for approximately 2 years," the DEIR concludes that, except for the docks and gangways to be connected to Piers 26 & 28 and Pier 23, these alterations would not adversely affect these historic resources because "[t]hese alterations are highly reversible because they can be easily disassembled, utilize materials that are less durable and constructed for a short lifespan." 105 [CP-4]

- First, because the DEIR finding of less than significant impact is based on the temporary nature of the improvements, the DEIR needs to include mitigation measures that require their complete disassembly and removal at a time certain. 106 [CP-4]
- Second, an impact can be significant even if it is temporary. This is especially true for historic resources, because they provide a primarily aesthetic experience that people will not be able to have for at least two years. The DEIR arbitrarily ignores this fact. 107 [CP-4]
- Third, the DEIR should assess the possibility of disassembly and removal of all temporary structures between the two race seasons and include as a mitigation measure a requirement for disassembly between AC-2012 and AC-2013. 108 [CP-4]
- Forth, the DEIR should include as a mitigation measure the requirement for repairing any damage caused by the temporary improvements and installations. 109 [CP-4]
- Fifth, the DEIR cannot make the unsupportable assumption that "these alterations would not adversely affect these historic resources because "[t]hese alterations are highly reversible because 110 [CP-4]

they can be easily disassembled, utilize materials that are less durable and constructed for a short lifespan" when designs for these alterations do not exist. 110 [CP-4] cont.

- The DEIR fails to explain what is meant by "less durable" materials or "a short lifespan." 111 [CP-4]

COMMENT CP-5C: IMPACTS TO AC34 VENUES ON GGNRA/NATIONAL PARK SERVICE, PRESIDIO TRUST AND SF RECREATION & PARK DEPARTMENT LANDS

The DEIR's conclusions that no impacts would result to historic resources from proposed installations within Aquatic Park and Fort Mason; and that potentially significant impacts from attaching a gangway to the historic Marina Seawall would be less than significant, are not adequately supported by the information contained in the DEIR. The comments below point out inadequacies in the DEIR's evaluation of project-specific impacts, including informational deficiencies, improperly minimizing the potential impacts, and relying on inadequate mitigation measures. 112 [CP-5]

Impacts to Aquatic Park (DEIR, p. 5.5-90)

The Hyde Street Pier and Aquatic Park are the heart of the San Francisco Maritime National Historical Park (NHP). The historic resources of the San Francisco Maritime NHP include six National Historic Landmark vessels that dock along the Hyde Street Pier. In addition, the Aquatic Park National Historic Landmark District, listed on the National Register, encompasses much of the San Francisco Maritime NHP, including the historic Municipal Pier. (DEIR, p. 5.5-17)

As described below, because the DEIR improperly minimized the project's potential impacts on the historic resources within Aquatic Park, no adequate mitigation measures were proposed. 113 [CP-5]

Installations. The proposed AC34 project at Aquatic Park would include the following "installations" which the DEIR describes as being "potentially incompatible with the historic maritime setting of the Aquatic Park Historic Landmark District":

> "...temporary merchandising tents and exhibition spaces along the concrete promenade near the entrance to the historic Municipal Pier. Located in the open water of the central basin would be a floating video barge and boat exhibitions." (DEIR, p. 5.5-90)
>
> "Weather equipment would be temporarily installed on Municipal Pier..."(DEIR, p. 5.5-91)

The DEIR's conclusion that all of these installations "would be temporary and fully reversible" and, thus, that "no significant long-term impacts to Aquatic Park are expected" is not adequately supported by facts presented in the DEIR:

- No designs for these installations exist. 113 [CP-5] cont.

- Although the DEIR assures the reader that all these installations are temporary and would be removed after the AC34 events are complete, the DEIR is silent as to how long they would remain in place and what would require their removal. Who would be responsible for their removal and when? How long will they stay in place? Would they be left in place for approximately two years to accommodate both the 2012 and 2013 race events? 114 [PD-6, CP-5]

- If the Golden Gate Yacht Club retains the America's Cup title and the races remain in San Francisco, would any of these "temporary" installations be left in place until the next America's Cup race event? 115 [CP-5]

Impacts of Increased Visitation/Boat Traffic. The DEIR concludes that increased visitation drawn to Aquatic Park (i.e. huge crowds) by AC34 would not impact the historic buildings, the historic Municipal Pier, or the historic ships docked along Hyde Street Pier because "existing capacity restrictions on Hyde Street Pier" and the closure of the Municipal Pier on race days would limit public visitation. (DEIR 5.5-90) The DEIR is inadequate, however, in failing to consider the physical impacts that could result to these historic ships or to the Municipal Pier from what the DEIR describes elsewhere as "increased visitation by recreational boaters wanting to view the AC34 races." 116 [CP-5, RE-3]

- Is there a plan in place to protect the historic ships docked along Hyde Street Pier from "increased visitation by recreational boaters," including potential collisions?

- Is there a plan in place to protect the Hyde Street Pier and the historic Municipal Pier from potential collisions or other impacts from recreational boaters or from the proposed floating video barge, boat exhibitions, and AC racing boats that are proposed to be installed in the Aquatic Park cove created by the Municipal Pier? (Figure 3-23 at DEIR, pg 3-59) 117 [CP-5, RE-2, RE-3]

- Given the fact that the Municipal Pier, which will be perceived by the race-viewing public as a primary viewing location, is in serious need of rehabilitation and limited capacity, what protections will be put in place to limit public access? Who will be responsible for implementing these projections? 118 [CP-5, RE-3]

- As mitigation for the temporary and potentially permanent impacts of AC34 to San Francisco Maritime NHP, the DEIR should consider the restoration of the Municipal Pier as a part of the proposed project. Not only would this provide a viewing area for the AC34 races, but would also leave a lasting legacy of the America's Cup to the people of San Francisco. 119 [CP-5]

Impacts to Fort Mason (DEIR, p. 5.5-91)

Environmental Council Comments
America's Cup DEIR Case No. 2010.0493E
Revised August 29, 2011

Fort Mason includes a National Register Historic District and a National Historic Landmark District (San Francisco Port of Embarkation, U.S. Army Historic Landmark District). (DEIR, p. 5.5-18)

As described below, because the DEIR improperly minimized the project's potential impacts from proposed installations on the historic resources within Fort Mason, no adequate mitigation measures were proposed.

In addition to the internal use of historic Piers 2 and 3, the proposed AC34 project within Fort Mason would include "a satellite dish and media barge to be placed near historic Pier 3, and restrooms to be located within the Great Meadow," which the DEIR describes as being "potentially incompatible with the historic setting of the National Historic Landmark District and National Register District at Fort Mason." (DEIR, p. 5.5-91) 120 [CP-5]

The DEIR's conclusion that "no significant long-term impacts to Fort Mason are anticipated" because all of these installations "would be temporary in nature and the platforms would be removed after the event," is not adequately supported by facts presented in the DEIR:

- No designs for these installations exist.

- The DEIR is silent as to how long these installations would remain in place and what would require their removal. Who would be responsible for their removal and when? How long will they stay in place? Would they be left in place for approximately two years to accommodate both the 2012 and 2013 race events? 121 [PD-6, CP-5]

- Could the restrooms located within the Great Meadow cause permanent damage? If so, who would be responsible for restoration? 122 [CP-5]

- If the Golden Gate Yacht Club retains the America's Cup title and the races remain in San Francisco, would any of these "temporary" installations be left in place until the next race event? 123 [PD-8, CP-5]

Potentially significant impacts to historic earthen fortifications within Fort Mason due to Increased Visitation are discussed below.

Impacts to Marina Green and Vicinity (DEIR, p. 5.5-92)

The Marina Seawall, Marina Green and the Concessionaire Stand have been determined eligible for listing on the National Register of Historic Places. The West Harbor Lighthouse also possesses historic

significance and has been determined eligible for listing in the California Register of Historic Resources and has been recommended for designation as a City Landmark. (DEIR, 5.5-20)

As described below, the DEIR's conclusion that the impact to the historic Marina Seawall from attaching to it a gangway would be less than significant is not adequately supported by the information contained in the DEIR, and the proposed mitigation measure is weak and insufficient. **124** [CP-5]

The proposed project would involve the installation of temporary floating docks to to provide "anchorage for tender and race official boats and possibly some private spectator boats for the 2012 events." The temporary floating docks would be accessed from a gangway connecting the Marina Green with the floating docks below.

> "The gangway is anticipated to be a cantilever structure so as to avoid any impact on the historic seawall. The design may include a concrete counterweight installed behind the seawall and a steel frame structure would be constructed to cantilever over the wall to provide the support for the proposed gangway. However, as the specific design and attachment method of the gangway are not fully known at this point, it is conservatively assumed that this activity would have a potentially significant impact to the integrity of the historic seawall, including its curved, cobble stone-clad façade and stone cap. Implementation of **Mitigation Measures M-CP-1c** (Protection of Historic Resources due to Direct Damage), which calls for a review of the gangway attachment methods for compliance with the Secretary's Standards, would ensure that impacts would be reduced to a less-than-significant level." (DEIR, p. 5.5-92)

Mitigation Measure M-CP-1c is completely inadequate to ensure that the project's potentially significant impact to the historic Marina Seawall would be "less than significant." Nor would it be adequate to protect any other historic resource "due to direct damage." It provides that:

> "The project sponsors shall ensure that any plans which call for the attachment, anchoring, or bracing of temporary structural elements to existing historic buildings, structures, or objects (e.g., the stone façade of the historic Marina Seawall), are reviewed for compliance with the Secretary's Standards by a qualified architectural historian, ***or*** in the alternative, a qualified architectural historian shall develop a proposed plan for such attachments setting forth appropriate techniques to govern and guide such activities that are consistent with the Secretary's Standards (the "Temporary Structure Approach"), which plan will be reviewed by the Department of City Planning for consistency with the Secretary's Standards before implementation. Removal of any such attachments, anchors, or bracing shall be fully reversible and include post-removal stabilization of historic materials to prevent long-term degradation in condition. Any unintended damage to historic resources as a result of the AC34 event will be repaired by the project sponsors to its pre-event condition. **125** [CP-5]

COM-125

- First, the DEIR admits that "the specific design and attachment method of the gangway are not fully known at this point," which means there is no way to assess the seriousness its ultimate impact on the Marina seawall or the adequacy of any mitigation measure. **126** [CP-5]
- Second, as mentioned in the mitigation measure, the impact could be permanent requiring "post-removal stabilization of historic materials to prevent long-term degradation in condition." This clearly shows that the mitigation measure does not match the potentially significant impacts to the Marina Seawall. **127** [CP-5]
- Further, the mitigation measure gives the project sponsor the choice between hiring his own architectural historian to review the plans, ***or*** in the alternative, to hire an architectural historian to develop a proposed plan. It is unclear if the Planning Department would have any opportunity to review the former. **128** [CP-5]

COMMENT CP-5D: IMPACTS TO HISTORIC EARTHEN FORTIFICATIONS WITHIN EVENT VENUES AND VIEWING AREAS

1. The DEIR describes AC34's potentially significant impacts to earthen fortifications on venues and viewing areas as follows:

> "Increased visitation by event spectators in both the primary and secondary viewing areas could cause a substantial adverse change in the significance of historic resources. For example, as discussed in more detail below, numerous historic earthen fortifications in or near the primary event venues and within the secondary viewing areas would be at risk from erosion due to increased visitation. Most of these impacts would occur on lands managed by the GGNRA unit of the NPS... Erosion of historic earthen fortifications or other historic resources due to increased event visitation is a potentially significant impact of the proposed AC34 project." [Emphasis added.] (DEIR at p. 5.5-76)

According to the DEIR, these primary and secondary viewing areas include GGNRA lands within Fort Mason, Crissy Field, the Presidio, Cavallo Point, Marin Headlands, Fort Baker, Baker Beach, Presidio and Fort Point, as well as publicly accessible areas of Yerba Buena/Treasure Island and the State Parks lands of Angel Island. (DEIR, pp. 5.5-91 through 5.5-95). As described in the DEIR, each of these areas contains sensitive historic sites that would be at risk from erosion due to increased visitation. For example:

> "[H]istoric earthen fortifications are present on the north-facing bluff of Upper **Fort Mason**; these sensitive features could be subject to erosion due to visitors straying off designated paths to view event races on the Bay. This would be a potentially significant impact." (DEIR 5.5-91)

"Historic earthen fortifications located on the Presidio Bluffs above the western end of **Crissy Field**, specifically, Battery East, could be damaged from increased erosion due to visitors straying off designated paths to view event races on the Bay." (DEIR 5.5-93)

"Historic earthen fortifications located along the bluffs in the **Cavallo Point** area could be damaged from increased erosion due to visitors straying off designated paths to view event races on the Bay." (DEIR 5.5-93)

"For example, historic earthen fortifications within the **Presidio**'s east and west bluffs could be damaged due to increased erosion from visitors attempting to view the event races from these higher Bay shoreline elevations." (DEIR 5.5-95)

2. The mitigation measure proposed in the DEIR to reduce these impacts to "less than significant," does not yet exist and there is no evidence it will actually be implemented.

There is no basis for the DEIR's conclusion that **Mitigation Measure M-CP-1b** (Protection of Historic Resources due to Indirect Damage), as set forth in the DEIR on p. 5.5-97, would "ensure that the impacts to earthen fortifications would be less than significant" because it does not yet exist. According to the DEIR: **129** [CP-9b]

"This mitigation measure calls for inclusion of specific measures in the Parks Event Operations Plan, to be prepared and implemented in support of the proposed project (see Chapter 3). The mitigation measure would require that the plan incorporate specific elements to protect cultural resources, including the use of removable protective fencing, signage, area closures, pre- and post-event conditions assessments and damage repair, and educational and awareness programs." [Emphasis added.] (DEIR 5.5-91)

The "Parks Event Operations Plan" is described in Chapter 3, as a part of the "Implementation Plans," as follows:

"The Host Agreement states that as a further element of the People Plan, the City shall work with the Event Authority 'to develop and implement a plan to secure certain of the on-shore spectator areas and the on-the-water spectator areas.' The Parks Event Operations Plan would focus on the on-shore spectator venue sites and would be developed in consultation with the Event Authority and responsible jurisdictional authorities, including the NPS, California Department of Parks and Recreation, Presidio Trust, and SFRPD. The Plan would be implemented as part of the AC34 project. The Plan would identify potential issues and develop cost-effective solutions to help create a positive spectator experience during the AC34 events as well as aim to respect the needs of other incidental visitors that may be in affected areas, consistent with the mission and objectives of all

Environmental Council Comments
America's Cup DEIR Case No. 2010.0493E
Revised August 29, 2011

parties. The implementation of the Plan for the AC34 events in 2012 would provide an opportunity for refinement of the Plan for use during the AC34 events in 2013 based on actual experience at the different spectator venues." [Emphasis added.] (DEIR, pp. 3-87 - 3-88)

Mitigation Measure M-CP-1b is inadequate to ensure that the project's impacts to sensitive historic resources present in these areas would be "less than significant" for the following reasons: **130** [CP-9b]

- First, in order for the "Parks Event Operations Plan" to provide mitigation for the project's significant impacts, the plan needs to be complete and included in the DEIR, which it is not.
- Second, there is no evidence in the DEIR that the "Parks Event Operations Plan" is capable of being implemented. There is no evidence in the DEIR that the federal, state and local agencies with jurisdiction over these sensitive historic resources would agree with the Event Authority as to the content of a "Parks Event Operations Plan" or that the agencies would have the resources – staffing and funding – to effectively implement such a plan to protect all of the areas that contain sensitive resources. There is no information in the DEIR as to how this mitigation measure would actually be implemented and enforced. **131** [PD-7, CP-9b]
- The statement in the DEIR that the "People Plan is included as a part of the project for review in this EIR" (DEIR. p. 3-87) is inaccurate. Not only is the People Plan not included in the DEIR, but such plan is still a draft form in the process of being developed. Only a Draft People Plan, dated 3-31-11, along with "Progress Reports #1 and #2 are available on the City's website. <http://oewd.org/Development_Projects-Americas_Cup.aspx> Plans to be developed in the future cannot be a part of the "project" being reviewed in this EIR nor can they be analyzed as mitigation measures. **132** [PD-7, CP-9b]
- Since these Implementation Plans are incomplete and not included in the DEIR, the DEIR's reliance on them, as either a part of the project description or for mitigation purposes, is improper. **133** [PD-7, CP-9b]
- The DEIR's discussion of the People Plan is even more contorted by the statement that "The Host Agreement calls for the People Plan to be reviewed and accepted by the Event Authority by September 30, 2011, and after such acceptance the City would consider the Plan for adoption as a part of the Event project approvals once environmental review is complete." (DEIR. P. 3-87) Not only can plans to be developed in the future not be analyzed as mitigation measures, but in this case the mitigation plan to be developed in the future is dependent on the project sponsor's approval. **134** [PD-7, CP-9b]
- The DEIR fails to discuss the requirement that the "Parks Event Operations Plan" would be subject to review under NEPA and NHPA after its completed and prior its approval or implementation by a federal agency. **135** [PD-7, CP-9b]

- The proposed "Parks Event Operations Plan" discussed in the DEIR is limited to "on-shore spectator venue sites." The DEIR fails to discuss how "off-shore" areas within the jurisdiction of NPS would be protected. The DEIR fails to disclose and discuss how spectator boats or others boats associated with the AC34 event could impact historic resources located off-shore within federal jurisdiction. **136** [PD-7, CP-9b]

COMMENT CP-6: THE FACTS CONTAINED IN THE DEIR DO NOT SUPPORT THE CONCLUSION THAT IMPACTS TO HISTORIC RESOURCES FROM THE PIER 27 CRUISE TERMINAL WOULD BE LESS THAN SIGNIFICANT. DESIGN MODIFICATIONS ARE REQUIRED.

Impact CP-5. The DEIR concludes that the impacts on historic resources from construction and operation of the proposed Pier 27 Cruise Ship Terminal would be less than significant and that no mitigation would be required. (DEIR, p. 5.5-106) For the reasons set forth below, the facts contained in the DEIR do not support this conclusion. The proposed design of the Pier 27 Cruise Ship Terminal could significantly affect the integrity of the Embarcadero National Register Historic District and the historic resources within District unless design modifications are required.

COMMENT CP-6A: CRUISE TERMINAL DESIGN DOES NOT COMPLY WITH THE SECRETARY'S STANDARDS

The information contained in the DEIR and in the report prepared for the Port by Architectural Resources Group on the Pier 27 Cruise Terminal[7] (the "ARG Cruise Terminal Report") does not support the conclusion that the proposed design of the Cruise Terminal complies with the Secretary's Standards, in particular, Standard 9, which provides as follows: **137** [CP-7]

> Standard 9 – "The new work shall be differentiated from the old and shall be compatible with the massing, size, scale, and architectural features to protect the historic integrity of the property and its environment." [Emphasis added.]

This standard makes it clear that to protect the historic integrity of the Embarcadero National Register Historic District, the new work (in this case the proposed new cruise terminal) cannot be differentiated from the old in such a way that makes it incompatible with *"the massing, size, scale, and architectural features"* of the Embarcadero Historic District and the historic resources within the District.

Under the guise of how the proposed Cruise Ship design is "differentiated from" (but not compatible with) the Historic District, the ARG Cruise Terminal Report points out the following features, which would not be compatible with the massing, size, scale, and architectural features to protect the historic integrity of the property and its environment [Italicized quotes below are from the ARG Cruise Terminal Report; underlining is for emphasis]:

[7] Architectural Resources Group, Pier 27 Cruise Terminal, Project Consistency with the Secretary Standards, June 6, 2011.

Environmental Council Comments
America's Cup DEIR Case No. 2010.0493E
Revised August 29, 2011

1. *"The extensive use of...glass walls" will clearly identify the building as contemporary structure."*

   Comment: The "glazing-dominated passenger area, with its "extensive use of glass walls" on the facade most of the proposed cruise terminal most visible from The Embarcadero, is not compatible with the architectural features of the Historic District as required by Standard 9and should be reduced.

   As stated by ARG in its report on compatible designs for new buildings on the Northeast Plaza (to be located adjacent to the proposed cruise terminal on Pier 27):[8] "to architecturally complement the Belt Railroad and bulkhead buildings new structures should be finished in industrial materials characteristic of the Historic District such as concrete, stucco or metal siding and steel sash windows." [Emphasis added.] **138** [CP-7]

2. *"The discontinuous massing of the building will differentiate it from the repetitive, linear massing of the historic pier sheds."*

   Comment: Clearly the "discontinuous massing" of the proposed terminal design would not be compatible with *"the repetitive, linear massing of the historic pier sheds"* within the Historic District as required by Standard 9. **139** [CP-7]

3. *".. the proposed use of narrow columns to support the canopy on the terminal's west side will distinguish the new canopy from the historic canopies."*

   Comment: The proposed "narrow columns" are not found anywhere in the Historic District and would, therefore, not be compatible with the District's architectural features under Standard 9.

4. *"The proposed terminal's outshore end, which will consist of an uncovered service area enclosed by an open aluminum fence up to ten feet in height, will be easily distinguishable from the historic sheds, most of which terminate in a low-pitched gabled end wall."*

   Comment: Clearly the outshore end of the cruise terminal as described by ARG, above, would not be compatible with the historic sheds found in the Historic District, *"most of which terminate in a low-pitched gabled end wall."* As with many other features of the proposed design this architectural feature would not comply with Standard 9. **140** [CP-7]

5. *"... "the base of the terminal may be visually strengthened through incorporation of fritted glass or* **141** [CP-7]

[8] Architectural Resources Group, Pier 27 Design Guidelines for Northeast Wharf Plaza, Consistency with the Secretary Standards, June 6, 2011.

metal screens at the first story of the lobby portion of the building."

Comment: Not only would strengthening the base and reducing the amount of glazing on the passenger area make the design more compatible with the Historic District, but would also reduce the projects impacts on biological resources by helping to prevent bird deaths. The DEIR states that the extensive use of glass in the proposed design may result in birds strikes (DEIR, 5.14-41). **141** [CP-7] cont.

COMMENT CP-6B: EXTENSIVE NEW OPEN SPACE PROPOSED ON PIERS 27-29 WOULD NOT BE COMPATIBLE WITH THE EMBARCADERO HISTORIC DISTRICT

The DEIR does not address the compatibility of creating almost 10 acres new open space on Piers 27-29 with the character and setting of the Historic District and historic Pier 29. This extensive new open space would include: **142** [CP-8]

- Over 3 acres (160,000 sq ft) of undefined open space proposed to be created at the end of Piers 27-29, which is not seen anywhere else in the District and therefore not a compatible feature. The EIR should discuss how this could be mitigated by restoring the end of Pier 29 to its original length and appearance and by redesigning the outshore end of the proposed new terminal consistent with the ends of historic pier sheds in the Historic District, as noted above.

- A proposed 3-acre "Ground Transportation Area" in the valley between Pier 29 and the proposed new cruise terminal, which would accommodate staff parking, bus parking, overflow bus parking, taxi pick up and taxi drop off areas. Specifically, the DEIR fails to consider the compatibility with BCDC policies of constructing an extensive new parking area on theses piers. **143** [CP-8]

- The DEIR also fails to consider the significant cumulative visual and aesthetic impact of this vast parking area on the character of the Historic District and Pier 29, particularly when combined with over 3 acres (160,000 sq. ft.) of undefined open area proposed at the end of the piers and the 2.5-acre proposed yet-to be-designed-or-programmed Northeast Wharf Plaza. The figures in the showing the proposed new Cruise Terminal fail to accurately show the buses, taxis, and parked cars in the valey, particularly in the views from above. We note in particular the misleading Figure 3-38 – Proposed Landscape Plan (DEIR, p. 3-107), and Figures 5.3-16, 5.3-18, 5.3-19 and 5.3-20 (DEIR, pp. 5.3-52 through 5.3-56) which show no cars, busses, taxis, even when a cruise ship is docked. **144** [CP-8]

COMMENT CP-6C: 160,000 SQ. FT. OPEN AREA AT THE END OF PIERS 27-29 MEETS NONE OF THE PROJECT OBJECTIVES **145** [PD-2]

The DEIR fails to show how the proposed 160,000 sq foot open area at the end of Piers 27-29 is necessary to meet the project objectives of either project sponsor.

Environmental Council Comments
America's Cup DEIR Case No. 2010.0493E
Revised August 29, 2011

No longer appears to meet AC34 Objectives. Although the NOP for the project said that America's Cup would locate the main spectator seating area at the end of Piers 27-31, this plan appears to have been abandoned because of the project's Wind Impacts. [See our comments on Wind Impacts.] The proposed AC34 plans as shown in the DEIR depict this area as being used primarily for "Boat Viewing," while the main "spectator" seating area is shown in a more protected area facing away from the Bay. See AC34 plans for the "open space" area at the end of Piers 27-31 in Figure 3-29 (DEIR, p. 3-71), Figure 3-30 (DEIR, p. 3-72), Figure 5.3-12, Figure 5.3-13A and Figure 5.3-13B (DEIR, pp. 5.3-43 through 5.3-45). Based on these figures, the proposed 160,000 sq. ft. of open area would not appear to be required to meet the objectives for the AC34 race event. **145** [PD-2] cont.

Meets none of the Port's Objectives. This creation of this 160,000 sq foot open area at the end of Piers 27-29 meets none of the Port's objectives for the cruise terminal or the Northeast Wharf Plaza. Further, the DEIR contains no specific plans for programming or the future use of this 3+ acre open space. The cruise terminal site plan shown in Figure 3-33 (DEIR, p. 3-97) makes this area look like it is of little future use in connection with cruise terminal. See also, Figures 5.3-19 and 5.3-20 (DEIR, pp. 5.3-19 and -20). In addition, Figures 3-36 and 3-38 don't even show the area in connection with the use of the Cruise Terminal or Wharf Plaza. The DEIR simply fails to show any reason at all why this proposed 160,000 sq. ft. of open area at the windy end of Piers 27-29 would be required for the operation of the proposed cruise terminal or the Northeast Wharf Plaza. **146** [PD-2]

COMMENT CP-6D: NO DETAILED SPECIFICATIONS IN DEIR FOR CRUISE TERMINAL ROOF FEATURES

Although the DEIR discusses the roof form of the proposed cruise terminal, it fails to include detailed specifications of its color and material showing their consistency with the roofs of the other pier sheds in the Historic District. Further, although the DEIR mentions that solar panels may be used in the future, the DEIR contains no specifications showing that such panels must be integrated into the roof so that they will be compatible with the roofs of the other historic sheds in the Historic district and will not impact important scenic views of the Historic District from above. **147** [CP-7]

- Instead of responding by saying that all roof features will comply with the Secretary's Standards in the future, please present specifications for the solar panels and roof design for review in the EIR.

- Bright white reflective material was recently applied to the historic roofs of Piers 17 and 19 by the Exploratorium and Port, respectively, are clearly incompatible with the Historic District and fail to meet the Secretary's Standards. They are also visual eyesores. Given this existing situation, which has not been corrected in spite of public complaints and requests for the Port to do so, please explain and discuss how future review by the Port will ensure consistency the Secretary's Standards for this and other changes in the District. Discuss specific enforcement mechanisms that will be in **148** [CP-7]

place so that such changes will be avoided or reversed. 148 [CP-7] cont.

COMMENT CP-7: THERE ARE NO FACTS IN THE DEIR TO SUPPORT THE CONCLUSION THAT IMPACTS TO HISTORIC RESOURCES FROM THE PROPOSED NORTHEAST WHARF PLAZA WOULD BE LESS THAN SIGNIFICANT.

Impact CP-6: **The DEIR concludes that the impacts on historic resources from construction of the proposed Northeast Wharf Plaza would be less than significant with mitigation. (DEIR, 5.5-108) For the reasons set forth below, the facts contained in the DEIR do not support this conclusion. Because the Northeast Wharf Plaza design does not yet exist, its potentially significant impacts on the Embarcadero Historic District and adjacent historic buildings cannot be adequately analyzed in this EIR.** 149 [CP-8]

COMMENT CP-7A: BECAUSE A DESIGN FOR THE NORTHEAST WHARF PLAZA DOES NOT YET EXIST, IT CANNOT BE ANALYZED IN THIS EIR.

There is no design for the proposed Northeast Wharf Plaza in the DEIR. This approximately 2½ acre open space plaza would be located along the west end of Pier 27, fronting The Embarcadero promenade. The DEIR describes the future/ongoing design process and potential impacts as follows:

> "Phase 2 of the proposed Cruise Terminal project includes construction of the Northeast Wharf Plaza, a new public open space along the Embarcadero. The final design of the plaza would be determined in a public planning and design review process managed by the Port and BCDC. The build-out of the Northeast Wharf Plaza would include construction of a new public open space and possibly including up to three new ancillary commercial structures near the Belt Railroad Office Building, and potentially a fourth building at the southern corner of the Plaza adjacent to the Embarcadero and Pier 23 Café. Because all of these changes have the potential to significantly alter the historic setting and integrity not only Pier 29 and 29½, the Belt Railroad Office Building, and Pier 23 Restaurant, but also the Embarcadero Historic District as a whole, the proposed project may have a *significant* adverse impact upon historic resources." [Emphasis added.] (DEIR, p. 5.5-108) 150 [CP-8]

Because a specific design for the Northeast Wharf Plaza does not yet exist, designs for the "possible" and "potential" new buildings do not exist, and no landscaping plan exits, the potentially significant impacts on the historic setting and integrity of Pier 29, the Belt Railroad Office Building, the Pier 23 Restaurant, and the entire Embarcadero Historic District cannot be adequately analyzed in this EIR.

COMMENT CP-7B: IMPLEMENTATION OF "PERFORMANCE CRITERIA" PROPOSED AS MITIGATION COULD RESULT IN POTENTIALLY SIGNIFICANT IMPACTS TO HISTORIC RESOURCES. 151 [CP-9f]

Despite the lack of an adequate project description and resulting failure of this DEIR to adequately

analyze the proposed Northeast Wharf Plaza, the DEIR devises the following scheme "to assist in mitigating these impacts to a less than significant level," which it describes as follows:

> "To assist in mitigating these impacts to a less than significant level, the project would implement performance criteria mitigation that would ensure consistency with the Secretary's Standards (see **Mitigation Measure M-CP-6**, Northeast Wharf Plaza Performance Criteria). The performance criteria and evaluation findings were prepared by ARG[9] on behalf of the Port of San Francisco specifically for this project specifically for this project."[10] (DEIR, p. 5.5-109) [Emphasis and footnote added.] 151 [CP-9f] cont.

Mitigation Measure M-CP-6: Northeast Wharf Plaza Performance Criteria (DEIR, p. 5.5-110) assumes that the application of general set of design guidelines will ensure that potentially significant impacts on the historic character of these resources would mitigated to less than significant. In fact, the "performance criteria" contained in proposed Mitigation Measure only serve to highlight potentially significant impacts that could result from the implementation of this mitigation measure:

1. The removal of the addition to the Belt Railroad Office Building would significantly impact this resource.

The following is included in the "performance criteria mitigation:"

> "As part of the design process the Port shall assess the historic integrity of the rear addition of the Belt Railroad Office Building and determine whether it retains sufficient integrity to be considered an integral part of its contributing resource status. Should the addition be determined integral to the contributing resource its treatment shall be consistent with the Secretary's Standards." (DEIR, p. 5.5-100) 152 [CP-9f]

According to the National Register nomination, the Belt Railroad Office Building (Pier 29 Annex), including the rear addition built during the period of significance, is listed on the National Register of Historic Places as a contributor to Port's Embarcadero Historic District. In other words, it is an integral part of this historic resource. As a result, the removal of the rear addition to Belt Line Railroad Building as a part of the construction of the new Northeast Wharf Plaza would be a significant impact on the significance or this historic resource that cannot be mitigated. The Port cannot change this designation by its own determination of its integrity. Therefore, the "performance criteria" itself is likely to result in a significant impact that cannot be mitigated.

[9] The DEIR incorrectly states that the performance criteria were prepared by ARG on behalf of the Port of San Francisco. The referenced report (Architectural Resources Group, Pier 27 Design Guidelines for Northeast Wharf Plaza, Consistency with the Secretary Standards, June 6, 2011) states very clearly that the Port, not ARG, developed these performance criteria.

2. Proposed new structures within the Wharf Plaza could significantly impact the historic setting.

The "performance criteria mitigation" also provide general guidelines for the construction of four (4) new buildings to be constructed in or near the proposed Wharf Plaza, which could significantly impact the setting of Pier 29 and Belt Railroad Office Building, as well as the Historic District. According to the performance criteria mitigation, one of these new buildings is a proposed "Gateway Restaurant Building" to be constructed at the south edge of Plaza right on the Embarcadero within the zone of the historic bulkhead buildings. **153** [CP-8]

Because there are no designs for these new structures in the DEIR, their impacts cannot be adequately analyzed or their potential impacts mitigated. Not only would new buildings in the Plaza area be potentially incompatible with the historic character and setting, but they could also block views.

- If the objective (unstated in the DEIR) is to provide a restaurant in the Plaza area, the DEIR should analyze the feasibility of locating a restaurant in Pier 29 or in the Belt Line Railroad Building. **154** [CP-8]
- The DEIR does not discuss what uses are being considered for the Belt Line Railroad Building following AC34. Please add that discussion. **155** [CP-8, PD-9]
- The DEIR should discuss how adding up to 4 new buildings on Piers 27-29 would be necessary to meet the Port's project objectives for the Northeast Wharf Plaza, specifically in light of the fact that the entire Pier 27 shed and a portion of the Pier 29 shed are proposed to be removed. **156** [CP-8]
- The DEIR fails to discuss how construction up to 4 new buildings on these piers complies with BCDC policies ad plans. The DEIR should discuss the compatibility of this "performance criteria" with the provisions of BCDC's Special Area Plan. **157** [CP-8]

3. Landscaping, grass and trees on the Northeast Wharf Plaza could impact the character of the historic setting within the Embarcadero Historic District.

Because there are only conceptual designs for the Wharf Plaza, its potentially significant impact on the historic character and setting of the Historic District cannot be adequately analyzed or its potential impacts mitigated. **158** [CP-8]

- The DEIR should consider how the Northeast Wharf Plaza will be programmed and how it will relate to the adjacent 3 acres of cars and taxis and busses and the 160,000 sq ft open space to be created at the end of Piers 27-29. **159** [CP-8]
- The DEIR failed to consider the impact on the Historic District of leaving an open gap in the **160** [CP-8]

otherwise almost continuous line of bulkhead buildings lining the edge of The Embarcadero. **160** [CP-8] cont.

- Grassy lawns and trees on piers in are not compatible in with the maritime and industrial character of the Port's Embarcadero Historic District. Yet the DEIR fails to consider alternative locations for a large public plaza, including developing it on a seawall lot or in the proposed new open space at the end of Piers 27-29. **161** [CP-8]

COMMENT CP-7C: DEIR FAILS TO CONSIDER HOW THE PROPOSED SECURITY FENCE COULD IMPACT THE CHARACTER AND SETTING OF THE EMBARCADERO HISTORIC DISTRICT.

The DEIR fails to adequately consider how the proposed Security Fence could impact the character and setting of the Embarcadero Historic District. There are no accurate depictions of this proposed fence in the DEIR. Figure 3-37 (DEIR, p. 3-105) is completely unhelpful in this regard. However, this figure, which shows a multitude of tables and chairs in a vast open space, does serve to emphasize the DEIR's lack of any information as to plans and programming for the proposed Northeast Wharf Plaza. **162** [CP-8]

COMMENT CP-7D: DEIR FAILS TO DISCLOSE AND DISCUSS THE TIMING OF THE CONSTRUCTION OF THE NORTHEAST WHARF PLAZA.

The DEIR fails to disclose and discuss the proposed timing of what it calls "Phase 2 of the proposed Cruise Terminal project."

The DEIR must disclose and discuss how the timing of the construction of the Northeast Wharf Plaza will relate to the construction of the cruise terminal and the "Ground Transportation Area." **163** [CP-8]

If the construction of the Plaza is dependent on financing through a future bond issue that would require approval by the electorate, the DEIR must consider the use and appearance of this space until funding is available for construction of the Plaza.

Given that this Plaza has been a part of the Special Area Plan since 2000, consideration should be given in the EIR of requiring that it paid for now by the America's Cup Event Authority as mitigation for a multitude of other impacts.

COMMENT CP-8: THE DEIR IS DEFECTIVE IN PURPORTING TO ANALYZE THE IMPACTS OF FUTURE LONG TERM DEVELOPMENT RIGHTS. IT FAILS TO PROVIDE PROJECT DESCRIPTIONS, FAILS TO PRESENT EVIDENCE SUPPORTING THE EFFECTIVENESS OF MITIGATION MEASURES; AND ILLEGALLY DEFERS THE DEVELOPMENT OF MITIGATION MEASURES. **164** [IO-5, CP-10]

The DEIR is defective in purporting to analyze the impacts of the long-term development rights over a significant number of the Port's historic properties to be transferred pursuant to the Host Agreement to

the Event Authority's development organization following the America's Cup event, even though the EIR states there is no detailed project specific information on these future projects.

The DEIR purports to analyze the "long-term development options at a conceptual level" (since no detailed, project-specific information exists) and at the same time says that it "ensures comprehensive environmental review of the project as a whole." This is an oxymoron. Because the long-term development portions of the project are unknown, a comprehensive environmental review of the "project as a whole" is not possible. **164** [IO-5, CP-10] cont.

Even if this EIR could be revised sufficiently to be considered a project-level EIR for the AC34 race event, it is inaccurate under CEQA to define it as a "project level" EIR with respect to the long-term development right projects.

The DEIR must be revised and recirculated to provide program-level analysis of any projects for which there is no detailed, project-specific information in this EIR. A project-level EIR must be prepared in the future when the specific details of that project are known.

COMMENT CP-8A: THE DEIR'S CONCLUSION THAT SIGNIFICANT IMPACTS ON HISTORIC RESOURCES RESULTING FROM THE LONG-TERM DEVELOPMENT OF PIERS 30-32 ARE "UNAVOIDABLE WITH MITIGATION" VIOLATES CEQA'S PROCEDURES AND IS NOT SUPPORTED BY EVIDENCE IN THE DEIR.

Impact LT-CP-1: The DEIR concludes that the unknown impacts of the unknown long-term redevelopment of the Port properties at Piers 30-32 could result in a significant impact to cultural resources, which is unavoidable with mitigation. (DEIR, p. 5.5-114)

The DEIR is defective in purporting to analyze the impacts on the historic Red's Java House and the Historic District that could result from future development rights over of Piers 30-32 to be transferred pursuant to the Event Authority under the Host Agreement, even though the EIR contains no detailed project specific information on the future project. The DEIR must be revised and recirculated to consider such future development at Piers 30-32 at a program level. At such time as the specific details of a proposed development at Piers 30-32 are known, such project-specific information must then be analyzed under CEQA at a "project level." **165** [IO-5, CP-10]

The DEIR acknowledges that Red's Java House is an historic resource under CEQA. But concludes that.

> "due to a lack of information regarding the proposed long-term development and its potential for physical impacts upon Piers 30-32, the effect of this development on Red's Java House, and/or the historic character of the Embarcadero Historic District are potentially significant and may not be mitigated to a less than significant level." (5.5-115)

Environmental Council Comments
America's Cup DEIR Case No. 2010.0493E
Revised August 29, 2011

The DEIR's proposed **Mitigation Measure M-LT-CPa** (Piers 30-32 Performance Criteria) provides that the potential development at Piers 30-32 shall be subject to preparation by the Port of "detailed design criteria for the long-term development of Piers 30-32 with the assistance of a qualified historic preservation architect."

The DEIR then concludes that:

> "...because no specific design proposal is before the Port and, in fact, none has yet been formulated, this impact is *potentially significant and unavoidable*, even with this mitigation measure." (5.5-115) **165** [IO-5, CP-10] cont

This approach violates CEQA for several reasons

- First, the DEIR improperly concludes that there may be significant impacts because there is no specific design proposal for Piers 30-32, admitting the total lack of information as to any future plans or project. **166** [IO-5, CP-10]
- Second, as the Port's "detailed design criteria for the long-term development of Piers 30-32" do not yet exist, the DEIR cannot possibly analyze their effectiveness to mitigate impacts, particularly impacts that are unknown, as it the case here. **167** [IO-5, CP-10]
- Third, the DEIR fails to provide any basis for concluding that there are not other mitigation measures worthy of discussion that could reduce the impacts to Red's Java House and the Historic District to less than significant **168** [IO-5, CP-10]
- Finally, this scheme effectively guarantees that the developer can do whatever it wants to with these Piers, including the demolition the historic Red's Java House, without having to go through any future CEQA review of a project's significant impacts. **169** [IO-5, CP-10]

Although the lead agency, not the public, has primary responsibility for identifying mitigation measures, the DEIR must consider the following:

- As to Red's Java House, the DEIR fails to consider the obvious mitigation measure: Require a provision in the lease from the Port to the Event Authority's development organization prohibiting its demolition or substantial alteration and requiring it to be retained as a part of any development of Piers 30-32. **170** [IO-5, CP-10]

The DEIR fails to consider another potentially significant impact of the long term development of Piers 30-32: **171** [IO-5, CP-10]

- The DEIR mentions the possibility that the site "could to accommodate up to two cruise ship berth, as a back up to the primary Cruise Ship Terminal at Pier 27" (DEIR, p. 5.5-115). This raises potentially significant impacts to historic Pier 35 that must be considered in the EIR. Pier 35 is currently being used as the primary cruise ship terminal and, according to documents submitted by the Port to BCDC in its application to amend the Special Area Plan, Pier 35 would become the back-up terminal upon completion of the proposed new terminal at Pier 27. The DEIR should analyze the indirect impacts on historic Pier 35 if, as a result of future Pier 30-32 development, it is no longer used for cruise terminal purposes. **171** [IO-5, CP-10] cont.

COMMENT CP-8B: **THE DEIR'S CONCLUSION THAT POTENTIALLY SIGNIFICANT IMPACTS TO HISTORIC RESOURCES (PIERS 26-28, PIERS 19-19½, PIER 23, PIER 29, THE BULKHEAD WHARF AND THE EMBARCADERO HISTORIC DISTRICT) THAT COULD RESULT FROM THE LONG-TERM DEVELOPMENT RIGHTS WOULD BE "LESS THAN SIGNIFICANCE WITH MITIGATION" IS NOT SUPPORTED BY EVIDENCE IN THE DEIR.** **172** [IO-5, CP-10]

Impact LT-CP-2: The DEIR concludes that long-term development could result in redevelopment of existing Port properties within the Embarcadero Historic District, but that the potentially significant impacts to these resources would be "less than significant with mitigation. "(DEIR, p. 5.5-116)

According to the DEIR, the following historic resources within in the Embarcadero Historic District could be significantly impacted by redevelopment resulting from the exercise of the long-term development rights: Piers 26-28, Piers 19-19½, Pier 23, Pier 29, and sections of the historic bulkhead wharf.

Confirming its informational deficiencies, the DEIR states, as to each one of these individual historic resources, that the project sponsor (Is the project sponsor the Port or the Event Authority?) may decide to exercise the option to develop these bulkhead buildings and transit sheds at sometime in the future, and that, because in is uncertain whether the option to develop these resources would occur, such improvements have not yet been designed. (DEIR, pp. 5.5-114 through 5.5-118) **173** [IO-5, CP-10]

The DEIR is defective not only in purporting to analyze all future impacts that may result from not-yet-designed projects from the possible exercise of development rights granted by the Host Agreement over potentially all of these historic resources, but also by concluding that all possible "significant direct and indirect impacts" to these individual historic resources and to the Embarcadero Historic District would be less than significant because:

> "Standard mitigation measures for the protection of cultural resources in the City and County of San Francisco would apply to reduce the impacts of long term development, and are incorporated here by reference. These include: 1) Archeological Testing, Monitoring, Data Recovery and Reporting, 2) Review of New Construction within the Embarcadero Historic District for Compliance with the

COM-132

Environmental Council Comments
America's Cup DEIR Case No. 2010.0493E
Revised August 29, 2011

> Secretary's Standards, and 3) Documentation and Interpretation for Demolition or Alteration of Buildings." (DEIR, p. 5.5-116)

In addition to these "standard mitigation measures," the DEIR adds **Mitigation Measure M-LT-CP(b)** (Long-Term Development on Historic Piers Performance Criteria) which purports to establish performance criteria "to guide" the developer's historic preservation consultant in the analysis of a project's consistency with the Secretary's Standards. Set forth on DEIR, p. 5.5-120, these so called new "performance criteria" to be applied to improvements that have not yet been designed would water down the application of the Secretary's Standards to such projects, allowing exceptions when they would not be "feasible." **173** [IO-5, CP-10] cont.

Even if the individual locations and specific details of projects were adequately described in the DEIR, which they are not, the DEIR has failed to show how such proposed mitigations, which weaken even the Secretary's Standards in deference to the developer, could be effective in reducing the potentially significant impacts to our historic waterfront.

In sum, the DEIR is defective in failing to provide complete project descriptions and in failing to present evidence supporting the effectiveness of proposed mitigation measures.

The DEIR must be revised and recirculated to consider these potential projects only at a "program-level." When the specific details of a proposed redevelopment project on one of these piers is known, it must then be analyzed under CEQA at a "project-level."

COMMENT CP-9: **THE DEIR'S CONCLUSION THE CUMULATIVE IMPACTS ON CULTURAL RESOURCES OF THE AC34 AND CRUISE TERMINAL PROJECTS, IN COMBINATION WITH OTHER PAST, PRESENT AND FORESEEABLE FUTURE PROJECTS, WOULD BE "LESS THAN SIGNIFICANCE WITH MITIGATION" IS NOT UNSUPPORTED BY EVICENCE IN THE DEIR.** **174** [CP-11]

For all the reasons set forth in our comments above (Comments CP-1 through CP-8), the DEIR fails to provide sufficient facts or evidence to show that the cumulative impacts of the AC34 and Cruise Terminal projects on historic and cultural resources would be less than significant. Therefore, consideration of the project's significant impacts, in combination with other past, present and foreseeable future projects would have the same result.

COMMENT CP-9A: **FAILURE TO INCLUDE THE 8 WASHINGTON STREET/SEAWALL LOT 351 PROJECT IN CUMULATIVE IMPACT ANALYSIS.** **175** [IO-6, CP-11]

The DEIR fails to include the proposed 8 Washington Street/Seawall Lot 351 in its list of projects located within this geographic scope that could have a potentially significant impact on cultural resources. (DEIR, p. 5.5-121) 175 [IO-6, CP-11] cont.

COMMENT CP-9B: FAILURE TO INCLUDE THE BRANNAN STREET WHARF PROJECT IN CUMULATIVE IMPACT ANALYSIS AND TO DISCUSS ITS POTENTIAL CONFLICTS WITH THE PROPOSED PROJECT.

The DEIR fails to include the recently approved Brannan Street Wharf Project in its list of projects located within this geographic scope that will have a significant adverse impact on cultural resources. (DEIR, p. 5.5-121)

The Brannan Street Wharf Project requires the demolition of Pier 36 and Bulkhead Wharf Sections 11, 11a and 12, all contributors to the Embarcadero Historic District. The EIR found that this would be a significant environmental effect, impacts that must be considered cumulatively with all the impact of the proposed project on the Embarcadero Historic District.

The DEIR is inadequate and incomplete in not disclosing and discussing the potential conflicts between the proposed project, which is the subject of this DEIR, and the Brannan Street Wharf Project FEIR. On August 15, 2011, the Port Commission adopted Resolution No. 11-54 approving the Brannan Street Wharf project and its Statement of Overriding Consideration, which contained the following justification for its decision to approve the demolition of these historic resources: 176 [CP-11]

> "1) The Project would realize improvements that provide public access, view and open space amenities and public benefits that uphold and realize adopted policies in BCDC's San Francisco Waterfront Special Area Plan, and the Port of San Francisco Waterfront Land Use Plan (and Waterfront Design & Access Element). **The Project would create the Brannan Street Open Water Basin between Piers 32 and 38** and, through the removal of Pier 36, would result in the net removal of 94,800 sq. ft. of fill. This would create a new expansive area to view and access the Bay, from an area newly created for the public's appreciation and enjoyment of the Bay." (Port Commission Resolution No. 11-54.)

COM-133

Environmental Council Comments
America's Cup DEIR Case No. 2010.0493E
Revised August 29, 2011

6. SECTION 5.6 - TRANSPORTATION AND CIRCULATION

While we appreciated the opportunity afforded to us by City staff to review the second administrative draft of DEIR, we remain frustrated that the preponderance of our substantive comments from that document are not reflected in the DEIR as published, and the same holds for our comments on the NOP and the first draft of the People Plan.

We have major concerns in all areas of the DEIR, and particularly in this section, that mitigation requirements are purposely vague in order to reduce their cost. For example, certain proposals which had been expected, such as transit priority signal enhancements for the E/F lines, for which staff have detailed plans (ref. TR-16, p. 5.6-80ff), have been omitted from the DEIR, perhaps because of the costs that might be entailed. By the same token, the understating of capacity issues reduces the requirement to fund additional service. This is neither legal under CEQA, fair to City residents, nor a good business move. 177 [TR-2i]

COMMENT TR-1: INADEQUATE DESCRIPTION OF FERRY SERVICE AND ASSOCIATED IMPACTS (IMPACT TR-21 AND MITIGATION MEASURE M-TR-21, IMPACT TR-22 MITIGATION MEASURE M-TR-22, AND IMPACT TR-23 AND MITIGATION MEASURE M-TR-23 – FERRY SERVICE)

According to the CEQA analysis, publicly funded and/or subsidized ferry service provided by WETA and affiliated providers, Golden Gate Transit and Blue and Gold Ferry are not expected to be able to accommodate transportation demand at peak times during America's Cup events in 2012 and 2013. Proposed mitigations to increase ferry service to meet the demand through the People Plan are uncertain, so the impact to these services remain "significant and unavoidable." 178 [TR-7d]

This result is unacceptable and we urge the city and port and the America's Cup Event Authority and associated entities to commit to providing clean, low or zero emissions water transportation to accommodate peak transportation demand. See recommendations on mitigations below.

In addition, the EIR must estimate the emissions from ferries compared to buses, cars and other transportation options and quantify and compare the emissions from each source by passenger and by total one-way and round-trip. This will allow for identification of the best transportation options relative to air quality.

COMMENT TR-2: FAILURE TO ADDRESS POTENTIAL IMPACTS OF PRIVATE CHARTER OPERATIONS

We urge the consideration of potential impacts associated with the operation of the Red & White Fleet, Adventure Cat, Oceanic Society, and other major and long-term private charter operations on San Francisco Bay be considered in the CEQA analysis of transportation and circulation since these services operate and provide transportation on the Bay, even though they are private and not regularly scheduled. 179 [TR-1d]

Other maritime constituencies related to water transportation that were not included in this section that could be impacted by America's Cup on-the-water activities is that of sailing regattas, sailing school vessel traffic, research vessels, and fishing vessels. 179 [TR-1d] cont.

COMMENT TR-3: RECOMMENDED MITIGATION FOR IMPACTS ASSOCIATED WITH PUBLIC FERRY SERVICE

One viable option for mitigating the impacts to public ferry service would be to implement new zero or near-zero, non-fossil fueled America's Cup ferry service to accommodate peak demand for both water and landside transportation. An America's Cup ferry service could pick up and drop off passengers along the city waterfront and from ferry terminals around the Bay with a new purpose-built ferry vessel. This type of "circle the Bay" service has been envisioned in the past. The city and Port has also consistently supported clean ferry vessels on the Bay in partnership with other agencies and operators so such a service would be consistent with city and port policy. For example, the city helped WETA (when still the WTA) secure federal funding for a fuel cell ferry for Treasure Island through Rep. Pelosi. Unfortunately that vessel was never built.

To mitigate the transportation and air quality impacts, the city, port and AC should provide an America's Cup ferry that is zero or near-zero emissions that operates primarily on renewable energy. As it would primarily serve spectators, visitors and others travelers mostly during peak weekend, non-commute time, the vessel would not need the horsepower, speed and other requirements of on-going commuter service, thereby eliminating the need for noisy and polluting diesel engines for primary propulsion.

We recommend that a new America's Cup ferry be built, financed and operated by a partnership with the city, the Port of San Francisco, the America's Cup Event Authority as a way to mitigate some emissions for CEQA requirements given the high impacts to transportation and air quality (and the need to mitigate these impacts long-term if Oracle wins the Cup again and the cruise terminal project is affected). The America's Cup Race Management, the Oracle Racing team, air and water quality agencies and grants, public and private ferry operators and builders could cooperatively fund the project for use during the America's Cup activities. After the Cup and during non-Cup activities it could be deployed for use at Treasure Island or elsewhere, or the America's Cup Bay ferry service continued. Such a vessel could be built in a year or less or an existing vessel could be leased or modified. Neither the city, the port nor the America's Cup Event Authority would need to operate the vessels as many existing operators are available to do so once the vessel is constructed. 180 [TR-7e]

Several real-world examples of such vessels include the wind-powered, winged ferry recently proposed to Golden Gate Transit by Winged+Wing Technologies of Napa; and the Solar Sailor of Australia, which is operating clean vessels around the world.

This proposed mitigation could reduce the impacts to ferry service on the Bay to less than significant in a cost-effective way that would also reduce the significant and unavoidable air quality impacts, which remain a major concern, given the potential harm to human health and the Bay environment.

O-ACEC

Environmental Council Comments
America's Cup DEIR Case No. 2010.0493E
Revised August 29, 2011

Other options to remedy the water transportation impact include:

- Charter for peak times an existing sailing vessel that already operates on the Bay and carries passengers on non-commute services such as sunset cruises. 181 [TR-7e]
- Adding service from existing ferry operators may not be cost effective, efficient or environmentally friendly since the vessels now operating on the Bay range tremendously in speed, size, and type of engine and emissions generation. 182 [TR-7e]
- Another, though far less desirable, option for mitigating impacts to public ferry service would be to contract with existing private charter vessels that meet California's air emissions standards to fill in during peak times (Red & White, Angel Island). However, the increased impacts to air emissions must be considered and mitigated if existing vessels are utilized. 183 [TR-7e]

COMMENT TR-4: INADEQUATE CONSIDERATION OF POTENTIAL AIR EMISSIONS (MITIGATION MEASURES M-TR-21, 22, 23)

Several statements in the following paragraph that is repeated in several sections of the Transportation and Circulation section are inaccurate:

> *While the identified mitigation measure would reduce transportation impacts, any increase in ferry or bus service would result in an increase in air quality emissions from those sources. However, those increases in emissions would be offset by a reduction in vehicle emissions associated with the reduction in vehicle traffic because of the increased availability of transit.*

The emissions from ferries, buses and cars are not equal. In fact the per-person and total emissions from a ferry, particularly a high speed ferry, will be higher than from cars or buses. So it is wrong for this document to assume that increasing ferry service would automatically reduce emissions. 184 [AQ-9]

The actual emissions based on transit type must be evaluated on a per-passenger and total passenger basis, quantified and compared, and mitigations implemented, and the statement corrected.

> *The extent of the increase in emissions and any offset reduction are not quantified in this EIR because the results would not change the outcome of the air quality analysis described in Section 5.8. As described in Section 5.8, Air Quality, all feasible mitigation measures to reduce air quality emissions are recommended to provide the maximum feasible reduction in emissions.*

We do not agree that *"all feasible mitigation measures"* have been considered or proposed. As our comments above reflect, far more can be done to prevent excess emissions from marine vessels during the events.

Even with implementation of those measures, the air quality impacts associated with criteria pollutant and precursor emissions, as well as associated health risk impacts, would remain significant and unavoidable.

Far more can and should be done to prevent excess emissions as described in these comments and elsewhere, such as requiring use of cleaner fuels and engines in marine vessels, and providing shoreside power and/or cleaner non-diesel generators the meet the strictest state and federal air quality standards.

The incremental air quality impact associated with the transportation mitigation measure would therefore not affect the conclusions of the air quality impacts, and all identified air quality mitigation measure would remain the same.

This statement is inaccurate and misleading because the full range of transportation mitigation measures has not been considered or implemented.

Implementation of the transportation mitigation measure, to the extent that it would reduce air quality emissions from vehicular traffic, would augment the air quality mitigation measures in reducing air quality impacts.

This statement is inaccurate and misleading because the full range of transportation mitigation measures has not been considered or implemented.

184 [AQ-9] cont.

COMMENT TR-5: UNDERESTIMATION OF PARKING DEMAND (SEE TABLE 5.6-16 ON P. 5.6-63)

Estimated "Parking Demand by Area for AC34 2012 and 2013 Event days" in Table 5.6-16 does not include parking demand associated with trips to San Francisco by ferry

Parking demand and associated transportation and circulation impacts to departure terminals and communities should be considered and included, including "cold starts" in the air quality section.

185 [TR-2b]

COMMENT TR-6: POTENTIAL UNDERESTIMATION OF IMPACTS ON PUBLIC TRANSIT (IMPACT TR-37)

Impacts on ferry service provided by Golden Gate Transit and other public and private operators could be larger than estimated in this section of the CEQA analysis which provide service to Giants games and other special events.

As written the DEIR acknowledges more generally that "it is possible that during certain special events, particularly those occurring on the weekend, transit capacity could be stretched to its limits and could not absorb the combination of riders for the AC34 2012 events as well as another special event. This could result in a significant transit impact and could adversely affect other modes, such as vehicles, due to overall high levels of congestion."

186 [TR-7e]

Specific mitigations for providing alternative, adequate and clean ferry service during competing special events must be provided. See above for possible mitigation, i.e. America's Cup clean ferry could provide a viable mitigation to this negative impact, as well as adding service from existing operators using clean non-diesel ferries.

186 [TR-7e] cont.

COMMENT TR-7: MITIGATION MEASURE M-TR-1 INADEQUATE WITHOUT ADEQUATE REVIEW

The People Plan and associated management plans should be required and completed as part of CEQA, not separately, in order to avoid significant and unavoidable negative impacts and ensure a sustainable America's Cup.

187 [PD-7]

COMMENT TR-8: MITIGATION MEASURE M-TR-85 POTENTIALLY INADEQUATE

If the SFMTA cannot provide adequate Muni service to reduce the Cruise Terminals' impact on the operation of the F-Market & Wharves to less than significant, then the city must consider other suitable mitigations to finance additional transportation.

Once option could be the zero or near-zero emissions America's Cup Bay ferry service that could pick up passengers at or near the cruise terminal (Pier 39 or Pier 33) and take them to ferry terminal, where they could then access more public transit options, and/or walk.

The port could also impose a fee or secure other contributions from the cruise companies themselves to fund and provide alternative transportation for passengers disembarking from the cruise terminal. For example, clean shuttle buses could be used only for shuttling passengers across the city.

188 [TR-13]

COMMENT TR-9: DEIR SHOULD TAKE INTO CONSIDERATION ALL THE AREAS AFFECTED BY THE PROJECT, I.E. NEARBY NEIGHBORHOODS, AND THE SUBSTANTIAL ADVERSE CHANGES IN THOSE NEIGHBORHOODS FROM TRAFFIC CONGESTION, NOISE AND VIBRATION, LACK OF PUBLIC UTILITIES AND WASTE MANAGEMENT, AND PUBLIC SERVICES.

"CEQA Guidelines define a significant effect on the environment as 'a substantial or potentially substantial, adverse change in any of the physical conditions within the area affected by the project....'" (DEIR Page 2-2, 1st paragraph—Standards for Adequacy of an EIR)

Pages 5.1-5 to 5.1.7: The DEIR makes many references to nearby neighborhoods and/or secondary viewing areas for land-based spectators. Page 5.1.5, last paragraph, states "the potential secondary viewing areas from which the AC 34 race area could be visible primarily include the waterfront and shoreline areas and north-facing slopes of the Presidio, Pacific Heights, Russian Hill and various vista points, such as Coit Tower."

The DEIR estimates that these neighborhoods may experience, CUMULATIVELY, up to only 5000 spectators (Page 3.39, Table 3-7) at the peak race time in 2013. The number was arrived at using a "Penetration Rate Analysis" used by the industry for estimating attendance at temporary events and

189 [TR-2c]

entertainment venues, including World Expos, Olympics and festivals, as well as more permanent attractions (Page 3-34, Footnote 27).

All of the events cited in the Penetrations Rate Analysis take place in large open areas dedicated to the event where scenic neighborhoods with view-sheds would be an exception and would therefore be impacted in minimal ways if at all. Using this particular analysis may work well for the Event area itself but is clearly not valid for projecting visitors and viewers into some of San Francisco's most advertised, promoted and scenic neighborhoods which are on tourist "must see lists" and widely published maps. Just two Examples of published materials available include the following:

1. Available free at the San Francisco City Hall Visitor Information Desk 8-11-11:

- San Francisco Visitor Map (published by Maps SF) highlighting Presidio, Pacific Heights, Russian Hill/ the "Crookedest Street", Telegraph Hill, and Coit Tower,
- The San Francisco Book (The Official Guide to the City: Summer/Fall 2011 (see pages 20, 22, 28 and 56 for highlighted scenic neighborhoods including North Beach, Russian Hill, Presidio and Telegraph Hill.

2. Available free at the concierge desk, Hyatt Hotel, Union Square, San Francisco, 8-15-11:

- City Map San Francisco, published by Guide Publishing Group, 2010, highlighting Presidio, Pacific Heights, Russian Hill/"Crookedest Street", Telegraph Hill and Coit Tower
- San Francisco Guide, The Original Free Visitor's Guide, August 2011, Where to go and What to do since 1970 (see pages 20, 23, 24,25,26, 39 highlighting City sights in North Beach, Russian Hill, Presidio and Telegraph Hill)

AC34 spectators, added to visitor tourism, will increase the noise, congestion, lack of sanitation and waste management resources and the need for special law enforcement in these well known, publicized neighborhoods. An example of special law enforcement includes the need for traffic enforcement on a regular, summertime weekend basis on Russian Hill near the Crookedest Street. On 8-13-11, a Saturday afternoon, traffic was observed solidly backed up on Lombard Street on Polk, Larkin and Hyde Street, idling in solid lines of cars where cars entered the crooked section. Because of the congestion, safety issues occurred, include blocking intersections, pedestrian safety and toxic emissions from exhaust. Additional noise was created in this residential area as a result of the crowds of visitors, their vehicles, and the shouted commands and traffic whistle by the traffic enforcement official. Because the Crookedest Street attracts so many visitors on foot and in automobiles, a traffic enforcement officer regularly manages summertime traffic at Lombard and Leavenworth to keep vehicles moving and pedestrians from blocking the streets. The enforcement entails shouting at pedestrians and cars who are reluctant to move as well as continuous use of a whistle. Motorcycles regularly rev their motors, setting off multiple car alarms along Leavenworth at the terminus at Lombard. As this is just one

189 [TR-2c] cont.

example of impacts from "regular" summertime visitors in one of the nearby neighborhoods, it is difficult to believe that visitors arriving for the America's Cup will not wish to see the similar nearby neighborhood sights that are widely promoted and advertised. [See Attachment 2]

The DEIR did not address the impacts on the nearby neighborhoods and because of this and its failure to identify mitigations, the DEIR is deficient.

Please add into the Project Description, an estimate based on previous events (such as the annual Blue Angels event) of where and in what numbers these crowds are likely to congregate, so that impacts can be accurately and adequately measured and mitigated.

Please evaluate the impacts on the nearby, secondary neighborhoods from traffic congestion, pollution, public safety and noise, and identify appropriate mitigations, based on previous events (such as the annual Blue Angels event).

189 [TR-2c] cont.

COMMENT TR-10: EIR MUST FULLY AND COMPREHENSIVELY ADDRESS AC34'S SIGNIFICANT IMPACTS ON TRANSPORTATION AND CIRCULATION AND FAILS TO ADEQUATELY INCLUDE THE NEARBY NEIGHBORHOODS, SECONDARY VIEWING AREAS.

Pages 5.1-5 and 5.1-6, AC34 Secondary Viewing Areas for Land Based Spectators: The DEIR is insufficient both in its scope and its description. Please describe how the People Plan will treat the neighborhood areas that will be impacted by transportation and circulation problems caused by the Event including South Beach, Telegraph Hill, North Beach, Russian Hill, Polk Gulch, Pacific Heights the Marina, and Cow Hollow?

- How will the People Plan, including the Transportation Management Plan, be integrated into the project undergoing environmental review; and if not integrated, how will the People Plan, including the Transportation Management Plan, be developed separately from mitigation measures proposed in the EIR with respect to the AC34 race program elements?
- Whose responsibility is it to pay for the "People Plan and the Transportation Management Plan?
- How will mitigation strategies developed in the EIR be required, implemented and adequately financed?

An analysis was done to identify potential secondary viewing areas where it may be possible to see broad areas of the race. The analysis (Page 5.1-6, Figure 5.1-1) encompassed a potential viewing area of approximately 1 mile from the outer edge of the proposed AC34 race area. It was determined that the potential secondary viewing areas from which the AC race area could be visible primarily include the waterfront and shoreline areas and *north-facing slopes of the Presidio, Pacific Heights, Russian Hill and various vista points such as Coit Tower.*

190 [PD-5, PD-7, TR-2c]

Page 5.1.7 states that "none of the secondary viewing areas would have the programmed amenities, event information or hospitality attractions ..." and goes on to estimate "the large majority of spectators would be expected to be at the primary venues rather than the secondary viewing areas....based largely on the fact that the primary venues would offer a unique and appealing programmed experience for spectators...".

While this may be true, it does not address the numbers who do and will visit the secondary viewing areas, which are almost exclusively quiet residential areas. These residential neighborhoods, many of which are promoted by the City as "must see" tourist areas, are almost completely without visitor amenities and are already impacted heavily by summer crowds of people searching for parking, honking horns, gunning and racing earsplitting motorcycles and motorbikes, and blaring car music.

As stated above in Specific Comment 1, the DEIR estimates that all these neighborhoods may experience up to only 5000 spectators (Page 3.39, Table 3-) at the peak race time in 2013, using a "Penetration Rate Analysis". All of the events cited in the Penetrations Analysis take place in large open areas dedicated to the event, where scenic neighborhoods with view-sheds would be a complete exception and would therefore be impacted in minimal ways if at all. The Penetration Analysis seems completely irrelevant for purposes of evaluating visitors and impacts on nearby neighborhoods/secondary viewing areas, especially where, as here, the DEIR fails to include better local information, as follows:

- Please provide visitor numbers defining July 4th, Fleet Week and other Bay centered figures to estimate neighborhood impacts
- Please provide and include analyses of crowds, the numbers of visitors on Russian Hill specifically attempting to reach, or visiting of the "Crookedest Street" (Lombard) which frequently requires the services of a traffic policemen just to keep cars and visitors moving during summer and peak visitor events
- Please provide and include in crowd analyses, statistics regarding the number of visitors to Coit Tower and the special restrictions that had to be implemented to manage traffic
- Please provide crowd analysis numbers, including locations where crowds gathered and quantities per each neighborhood location during the arrival and departure of the Queen Mary which occurred during a televised Super Bowl event
- Please provide an analysis of other available visitation numbers to well-advertised nearby neighborhoods from the Visitors and Conventions Bureau, City Tours, the police department, and other relevant businesses and agencies
- Please provide an analysis of cumulative impacts on neighborhoods when America's Cup visitors are added to the base of known summer tourists and vehicles in these areas

190 [PD-5, PD-7, TR-2c] cont.

Environmental Council Comments
America's Cup DEIR Case No. 2010.0493E
Revised August 29, 2011

Please provide crowd estimates gathered from past local events, noted above, and City data on which more realistic crowd estimates can be based to determine impacts on nearby secondary neighborhoods. Estimated numbers of tourists must be included to arrive at as accurate number as possible.

Please evaluate transportation and circulation impacts on nearby neighborhoods especially known to be tourist destinations (the waterfront and shoreline areas and north-facing slopes of the Presidio, Pacific Heights, Russian Hill and various vista points, such as Coit Tower), taking into consideration the AC34 Project Significant Impacts, Significant and Unavoidable Impacts, on Pages 7-11. Specifically, consider amending the Transportation and Circulation 3rd bullet to read "Significant and unavoidable impacts contributing to congestion in downtown San Francisco and along the waterfront <u>and nearby neighborhoods</u> during the AC34 2013 events."

190 [PD-5, PD-7, TR-2c] cont.

COMMENT TR-11: THE DEIR SHOULD INCLUDE A STRUCTURE FOR ONGOING AGENCY COORDINATION FOR AC34

Page 2-5, Table 2-1 Summary of Scoping Comments, includes our comment re "Ongoing agency coordination for the AC34 event". However, such ongoing coordination has not been included in the Project Description

> *DEIR Section, Chapter 3, Project Description:*
>
> *"Comment: The Project Description should include explanation and/or description of: Ongoing agency coordination for the AC34 event"*

THE DEIR fails to adequately address any overarching management structure/s to be put in place to achieve this requirement, such as an Incident Command System (ICS), to coordinate and make quick decisions that involve Transportation, Public Safety and Emergency Services.

Implementation Plans on page 5.6-40 suggest the People Plan "will coordinate and optimize local and regional transportation service plans and traffic management measures" but no substantive details are available as the People Plan is not in this DEIR, even as it is referenced, and is still under development.

Further, the Public Safety Plan (pg.3-89) which should "address all reasonable safety and security measures (including emergency and rescue services) to protect the public....to ensure a high level of security within and around all elements of the events venues..." is not available for comment as it is still under development.

Whether considered as parts of the Project or as mitigation measures, these Plans need to be included in the DEIR for public review and comment.

Neither the People Plan nor, we expect, the Public Safety Plan make any reference as to how they will coordinate all affected agencies' services to fully serve all San Franciscans at those times when the number of visitors to the Event at various locations along the water and into nearby neighborhoods will swell the population of San Francisco to about 150% of norm; not an insignificant increase.

191 [GEN-1, PD-7, TR-2f]

- Please analyze the need for developing and implementing an ICS so quick decisions can be made at the highest level to manage incidents for both the City as well as the Event Authority
- Please analyze the risks to the public if an ICS is not developed to protect all aspects of public safety in the fastest, most comprehensive way possible
- Please fully describe how the agencies will coordinate transportation, fire, police, emergency services for the entire City while the Events take place
- Please describe in detail and by classification what additional hires will be needed, how will they be paid for and what areas they will serve
- Please provide an analysis of how multiple transportation services will be managed to enable the passage of emergency vehicles through very congested conditions at the Event and in nearby neighborhoods

191 [GEN-1, PD-7, TR-2f] cont.

COMMENT TR-12: THE DEIR SHOULD PROVIDE MORE COMPLETE ANALYSIS OF THE AVAILABILITY OF PARKING SPACES IN EVENT VENUES AND SECONDARY VIEWING AREAS

Page 2-7, Table 2-1 Summary of Scoping Comments, "the availability of parking spaces at each venue and secondary viewing area" should be amended to add "and how many of the parking places in each separate location are reserved for exclusive use of the AC Events, guests and sponsors, and how many are available to the general public.

Page 3-42, Table 3-9 and Page 3-64, Table 3-10, note that Dedicated AC 34 parking will occur on certain existing parking/paved areas dedicated to serve AC 34 staff, guests and/or public for event, but do not state how many parking places AC 34 will take up of the total available parking places at Crissy Field, Marina Green, Seawall Lot 330, Ft. Mason, Ft. Mason Pier. Please provide a table showing total available public parking spaces available for **each** separate location, how many will be reserved for the exclusive use of AC during 2012 and then 2013, and how many will be available to the general public. Also, the EIR should provide equivalent information on Page 5.6-33, Table 5.6-6, Estimated Off-Street Parking Supply by Subarea in San Francisco.

192 [PD-7]

The DEIR is informationally deficient with respect to the following aspects of the Project description, impact analysis or mitigation measures. Please address the following questions in the Project Description or Impact/Mitigation Sections:

- Describe exactly how many parking spaces will be reserved for AC related vehicles on each pier noted.
- Describe exactly why it is necessary to have so much AC parking on Piers and public space near the waterfront for private vehicles.

Environmental Council Comments
America's Cup DEIR Case No. 2010.0493E
Revised August 29, 2011

- Describe exactly how all the private parking for AC participants, guests and sponsors fit into achieving AC34 Objectives 5., "facilitate access to and from desired destinations based on smart transportations strategies...."
- Describe precisely how this reserved, private parking complies with the Transit First Policy.
- Describe clearly which alternatives were evaluated to accommodate the private transportation needs of the Event and guests and why each one was not workable.
- Describe what alternatives were reviewed for private, reserved, parking versus vans, shuttles or other group modes for delivering AC related people to destinations and describe why each alternative was unsatisfactory.
- Describe clearly how the use of private vehicles on Public Trust piers further one of the event's stated goals of "expanding the appeal of the sport of sailing to the general public.
- Describe in detail (including configuration, capacity, mpg, carbon emissions, fuel type) what kind of vehicles will be allowed to park on the piers and the Public Trust realm.
- Provide particulars as to sources of cars such as whether or not they will be Car Share and/or alternative fuel vehicles to help demonstrate AC 34's commitment to their stated goal of "emphasizing natural resource stewardship".
- Provide information that if vehicles are not Car Share and/or alternative fuel vehicles, why other vehicles were selected.

192 [PD-7] cont.

COMMENT TR-13: THE DEIR SHOULD PROVIDE MORE INFORMATION RE SPECTATOR SEATING VENUES

Insufficient seating for the estimated crowds is likely to drive people and their vehicles up the hill into nearby neighborhoods for views of the Event, creating traffic congestion and other negative impacts. Additionally, if public seats have a price on them, this will also affect the nearby neighborhoods as people will avoid paying for these seats and attempt to find a free viewing spot in nearby neighborhoods, creating additional impacts on those same neighborhoods.

- Crissy Field: Of the 6200 spectator seats available for public viewing of the race, please detail how many of these seats are free, how many are paid seating open to the public for reservation, and how many are reserved for AC Event activities for 2012 and, separately, for 2013?
- Marina Green: Of the 2000 spectator seats available for public viewing of the race, please detail how many of these seats are free, how many are paid seating open to the public for reservations and how many are reserved for AC Event activities for 2012 and, separately, for 2013?

193 [PD-6]

COMMENT TR-14: THE DEIR SHOULD DESCRIBE HOW AC34 VOLUNTEERS WILL BE USED

Page 3-79, 1st paragraph, last sentence: The DEIR states "Volunteer staff would be used at most AD34 venues to provide a broad range of support services".

Because volunteers frequently have no particular skills in crowd control or transportation management, depending on a large cadre of volunteers to manage the projected crowds would put them at great risk.

Please detail exactly what these support services will include. If volunteers will be dealing with any element of crowd control and transportation and traffic, provide clear and precise details as to how will they be screened, trained and certified to prevent and manage unnecessary confrontations and accidents. **194** [PD-6]

COMMENT TR-15: MITIGATION MEASURES ARE GENERALLY INSUFFICIENT TO ADDRESS ALL THE IMPACTS

Cumulative impacts refer to two or more individual effects that, when taken together, are "considerable" or that compound or increase other environmental impacts.

Pages 1-32 to 1-48, Table 1-3, Summary of Impacts and Mitigation Measures, Sec. 5.6, Transportation and Circulation: While this table covers many of the known transportation impacts that will occur, there is nothing the DEIR or the People Plan that guarantees any mitigations will actually be adopted, or that funding is both available and secure.

- Will the mitigations be adopted?
- How will the mitigations funding be guaranteed?

These critical questions must be answered or the undesirable result of compounding and/or increasing other environmental impacts will occur. **195** [TR-2c]

Table 1-3 Summary of Impacts and Mitigations Measures M-TR-1, People Plan Specific Provisions for Impact TR-1-12, 15, 16, 27, 37, 38, 58-60, 69, 70 and 80: The Mitigations Summary fails to take into consideration the impacts and needed mitigations for the Columbus corridor from Union to Broadway with specific attention to Broadway and Columbus where tourism and entertainment insect with waterfront access and where there will be increased traffic levels generated by AC34.

Additionally the Mitigations Summary failed to take into consideration the intersections of Lombard with Polk, Larkin, Hyde and Leavenworth where traffic historically backs up for blocks on summer weekends creating noise, poor air quality, and traffic safety issues.

All these intersections are included in the DEIR in the category of "nearby neighborhoods where spectators will seek secondary viewing opportunities". These streets and intersections are already notorious and widely recognized as problematic.

Environmental Council Comments
America's Cup DEIR Case No. 2010.0493E
Revised August 29, 2011

Therefore they should be taken into consideration in the analysis of traffic and transportation as they will be even more impacted by the hundreds of thousands of people and the resulting increase in traffic levels anticipated to enter and leave the City for AC34.

Please review the impacts increased traffic on these streets and intersections and include suitable mitigation.

Suggested Mitigation for the above intersections should include the following measures:

- On-street parking restrictions
- Traffic control officer deployment
- Roadway closures; restricted access streets

195 [TR-2c] cont.

COMMENT TR-16: THE TRANSIT ANALYSIS DOES NOT ADDRESS EARLIER COMMENTS AND SHOULD BE MADE MORE ACCURATE AND COMPLETE

Page 5.6-20, Table 5.6-2: See comments on Pages 5.6-51 and 5.6-151 to 155, below. **196** [TR-2e]

Page 5.6-23, 1st paragraph line 6: Aren't Muni monthly passes accepted too, as well as Muni Passports? **197** [TR-7b]

Page 5.6.26, Table 5.6-3: Again, see comments on Pages 5.6-51 and 5.6-151 to 155, below. **198** [TR-2e]

Page 5.6-41, last bullet, F-Market & Wharves description: As described, this would be the ONLY portion of the Muni network where service would be reduced rather than enhanced. Operating a 5-minute headway including both Jones Street trips and Ferry Plaza to Pier 39 short-turns would mean significantly less F-line service (10-minute headways) both west of Pier 39 and along Market Street than the 6-minute service currently operated between Castro Street and Jones Street. This raises equity issues, as well as issues of neighborhood impact and concern. Furthermore, from a technical perspective, there is no analysis in the DEIR as to the impacts of such a service reduction, from 10 trips per hour to only 6, a 30% reduction, would generate. That is not acceptable. Any shuttle trips should be in addition to a 5-minute (or at least 6-minute) service between Castro and Jones. **199** [TR-4a]

Page 5.6-42, Fig. 5.6-9: The earlier comment concerning proposed new 47L service should be considered and addressed: *"Whether or not this starts at Civic Center,...(we) would recommend routing via Market to Van Ness, so that passengers can board at the common Van Ness/Market transfer point at all times, whether or not these supplemental buses are running."* **200** [TR-4a]

Page 5.6-43: The E-line is still proposed as a 20-minute service. As commented earlier, *"The goal should probably be at least 15-min. service on event days. This could also be addressed as a mitigation measure."* This is suggested by the likely overcrowding of the E and F lines, although the failure of the **201** [TR-4b]

analysis to separately evaluate these services obscures this likely need. (Again, see comments on pp. 5.6-51 and 5.6-151 to 155 below.) **201** [TR-4b] cont.

Page 5.6-51 Transit Analysis, 2nd paragraph: As commented earlier: *"Screenline analysis alone underestimates impacts that fall on particular lines, where ridership would not readily divert to other services with available capacity. In the case of AC34 demand, this specifically applies to the F (and E) line(s), which require an independent analysis. This may be true of other Muni services as well."*

A specific E-and F-line service analysis, in addition to the screenline analysis, is essential for AC34 planning, as has been conducted for the Cruise Terminal on pp. 5.6-152 to 155 below. A reliance on the screenline approach significantly obscures demand on the proposed E and F-line services. Even if it proves impossible to satisfy all latent demand for these services, such an analysis would reveal whether a goal of, say, E-line service more frequent than every 20 minutes, should be set. **202** [TR-2e]

Page 5.6-52, Note 17: While hourly data may have been obtained for buses in the manner described, that is not the source of data for either the F-line or the Metro lines, which lack automatic passenger counters and therefore rely on manual data collection. Muni staff have not been able to identify the source of the DEIR's hourly data for these rail lines, as SFMTA staff only summarize rail ridership in terms of 2-hour peak periods. The preparers of these analyses have so far failed to present the methodologies by which the hourly data for Muni rail lines was prepared.

Also, please consider and address this earlier submitted comment: *"The Muni data analysis unit estimates vehicle capacity based on mean ridership per ACTUAL trip not per SCHEDULED trip. The methodology described leads to inflated assessments of available capacity for heavily used services."*

Lastly, the screenline draft said Muni analyses were based on the SFMTA's 85% capacity standard. The public Draft EIR says 100% capacity levels were used for Muni, which is not in accordance with SFMTA procedures. No such change has been made for other operators, which generally have lower capacity levels to begin with based on lower standing passenger tolerances. Has SFMTA approved this change? Again, this leads to understating crowding on Muni vehicles. The "special event" rationale presented is not justified. **203** [TR-2e]

Page 5.6-60 to 5.6-62, Table 5.6-13 (had been 5.6-8 when last reviewed), and Tables 5.6-14 and 5.6-15: Earlier comment re trip generation should be considered and addressed: *"It remains unclear how certain clustered trip origins are reflected in the analysis, such trips originating at Wharf hotels, trips originating at Market St./Union Square hotels, distribution trips generated at the Lot. A Park-and-Ride facility, etc."* **204** [TR-2b]

Page 5.6-78, Table 5.6-22: Reflecting earlier comment, the analysis does now reflect the closure of EB Mission Street at Steuart/Embarcadero, and the LOS has accordingly changed from D to A. However, the question arises, how has diverted Mission Street traffic been assessed and accommodated? **205** [TR-3a]

Environmental Council Comments
America's Cup DEIR Case No. 2010.0493E
Revised August 29, 2011

Page 5.6-80, Transit Mitigations: Because of the critical nature of E- and F-line operations and then especially because of the limited numbers of serviceable streetcars available, it was expected that proposed mitigations would be included to maximize E- and F-line reliability and minimize their running times. Our earlier comment still needs consideration and addressing in the DEIR: *"Because of the critical role to be served by the E and F streetcar lines, specific mitigation measures to enhance their performance should be developed. These should include:*

- *Enhancement of transit priority for the E/F along The Embarcadero, which would also have "legacy" benefits, to reduce trip times and improve reliability.*
- *Passenger boarding by tourists particularly impacts F-line performance. Measures should be implemented to increase use of prepaid fare instruments by visitors, such as encouraging (or requiring) hotels to provide initial Muni Passports free to guests, and offering them for sale at all hotel front desks."*
- These potential mitigations still do not appear in the DEIR and should be discussed, along with others that could address these same issues.

206 [TR-4a]

Page 5.6-152 to 155: This is the F-line specific analysis, and in particular Table 5.6-33 on page 5.6-153, which is included for the Cruise Terminal assessment but which needs to be included for the AC34 analysis, as per several comments above. Again, reliance on the screenline methodology alone understates impacts on lines such as the E- and F-lines, and the associated need for line-specific mitigations.

However, per the comment above on p. 5.6-52, the methodology that developed the hourly ridership volumes presented in the table still needs explanation. **207** [TR-2e]

COMMENT TR-17: THE FERRY AND OTHER WATER TRANSPORTATION ANALYSIS SHOULD BE MADE MORE ACCURATE AND COMPLETE, AND POTENTIAL MITIGATION MEASURES MUST BE FULLY FUNDED AND MADE CERTAIN

Pages 1-37 to 1-40 and 5.6-94 to 5.6-96, Impact TR-21 and Mitigation Measure M-TR-21, Impact TR-22 Mitigation Measure M-TR-22, and Impact TR-23 and Mitigation Measure M-TR-22 – Ferry Service: According to the CEQA analysis, publicly funded and/or subsidized ferry service provided by WETA and affiliated providers, Golden Gate Transit and Blue and Gold Ferry are not expected to be able to accommodate transportation demand at peak times during America's Cup events in 2012 and 2013. Proposed mitigations to increase ferry service to meet the demand through the People Plan are uncertain, so the impact on these services remains "significant and unavoidable." **208** [TR-7d]

The ACE Council finds this result unacceptable under CEQA and urges the City and Port and the America's Cup Event Authority and associated entities to commit to providing clean, low or zero emissions water transportation to accommodate peak transportation demand. See recommendations on mitigations below.

In addition, the CEQA document must estimate the emissions from ferries compared to buses, cars and other transportation options and quantify and compare the emissions from each source by passenger and by total one-way and round-trip. This will allow for identification of the best transportation options relative to air quality. **208** [TR-7d] cont.

Page 5.6-27, 5.6.1.3 Other Water Transportation. The ACE Council urges that the potential impact to operations of the Red & White Fleet, Adventure Cat, Oceanic Society, and other major and long-term private charter operations on San Francisco Bay be considered in the CEQA analysis of transportation and circulation since these services operate and provide transportation on the Bay, even though they are private and not regularly scheduled. **209** [TR-1d]

Other maritime constituencies related to water transportation that were not included in this section that could be impacted by America's Cup on-the-water activities is that of sailing regattas, sailing school vessel traffic, research vessels, and fishing vessels.

Comment on Ferry Mitigations: One viable option for mitigating the impacts to public ferry service would be to implement new zero or near-zero, non-fossil fueled America's Cup ferry service to accommodate peak demand for both water and landside transportation. An America's Cup ferry service could pick up and drop off passengers along the city waterfront and from ferry terminals around the Bay with a new purpose-built ferry vessel. This type of "circle the Bay" service has been envisioned in the past. The City and Port have also consistently supported clean ferry vessels on the Bay in partnership with other agencies and operators so such a service would be consistent with City and Port policy. For example, the City helped WETA (when still the WTA) secure federal funding for a fuel cell ferry for Treasure Island through Rep. Pelosi. Unfortunately that vessel was never built.

To mitigate the CEQA impacts, the City, Port and AC Event Authority should provide an America's Cup ferry that is zero or near-zero emissions that operates primarily on renewable energy. As it would primarily serve spectators, visitors and others travelers mostly during peak weekend, non-commute time, the vessel would not need the horsepower, speed and other requirements of on-going commuter service, thereby eliminating the need for noisy and polluting diesel engines for primary propulsion. **210** [TR-7e]

The ACE Council recommends that a better way to meet CEQA given the high impacts to transportation and air quality (and the need to mitigate these impacts long-term if Oracle wins the Cup again and the cruise terminal project is affected) is that a new America's Cup ferry be built, financed and operated by a partnership with the City, the Port of San Francisco, the America's Cup Event Authority, America's Cup Race Management, the Oracle Racing team, air and water quality agencies and grants, public and private ferry operators and builders for use during the America's Cup activities. After the Cup and during non-Cup activities it could be deployed for use at Treasure Island or elsewhere, or the America's Cup Bay ferry service continued. Such a vessel could be built in a year or less or an existing vessel could be leased or modified. Neither the City, the Port, nor the America's Cup Event Authority would need to operate the vessels as many existing operators are available to do so once the vessel is constructed.

Environmental Council Comments
America's Cup DEIR Case No. 2010.0493E
Revised August 29, 2011

Several real-world examples of such vessels include the wind-powered, winged ferry recently proposed to Golden Gate Transit by Winged+Wing Technologies of Napa; and the Solar Sailor of Australia, which is operating clean vessels around the world.

This proposed mitigation could reduce the impacts to ferry service on the Bay to less than significant in a cost effective way that would also reduce the significant and unavoidable air quality impacts, which remain a major concern, given the potential harm to human health and the Bay environment. **211** [TR-7e]

Other options to remedy the water transportation impact include:

- Charter for peak times an existing sailing vessel that already operates on the Bay and carries passengers on non-commute services such as sunset cruises. (We do not recommended the Alcatraz Cruises Hornblower "hybrids" which are not wind or sail powered, but older diesel vessels with various add-ons that provide little if any power or emissions reductions). **212** [TR-7e]
- Adding service from existing ferry operators may not be cost effective, efficient or environmentally friendly since the vessels now operating on the Bay range tremendously in speed, size, type of engine and emissions generation. **213** [TR-7e]
- Another, though far less desirable, option for mitigating impacts to public ferry service would be to contract with existing private charter vessels that meet California's air emissions standards to fill in during peak times (Red & White, Angel Island). However, the increased impacts to air emissions must be considered and mitigated if existing vessels are utilized. **214** [TR-7e]

COMMENT TR-18: THE DEIR FAILS TO ADDRESS ALL THE IMPACTS AND SPECIFIC MITIGATIONS REQUESTED IN OUR EARLIER COMMENTS ON THE NOTICE OF PREPARATION; SEE BELOW FOR THESE FURTHER COMMENTS ON THE DEIR

To measure these impacts, we expect the analysis to map anticipated traffic flow into the City for planned venues and to study and map traffic impacts on all adjacent neighborhoods. In addition, the analysis should map anticipated motor and foot traffic on all planned venues as well as all affected neighborhoods. For instance, traffic impacts should be assessed for all freeway routes through the City, including Highways 1 and 101, for all major street arteries that have a terminus near any of the America's Cup viewing or gathering sites (including Broadway, Pine, Bush, Geary, Franklin and Gough), and for all streets near the shoreline that are determined to be impacted by traffic (we expect that to be at least 8 blocks or up to the hilltop, which will become ad hoc viewing areas). **215** [TR-2a]

The analysis must look at the most likely extreme event, which may be a race that takes place on a weekday afternoon in conjunction with a pennant race Giant's baseball game at AT&T Park. **216** [TR-2g]

Proposed mitigation measure intended to minimize impact to transportation and circulation: **217** [TR-3a]

The large crowds anticipated for both the 2012 and 2013 events will almost certainly attract more cars than the City can absorb unless dramatic action is taken. The People Plan envisioned by the project

sponsor must include measures to reduce or eliminate visitor auto traffic from the area. Recommendations to consider include:

Section 5.6.3 (page 5.6-38) should include implementation of a Regional Transportation Plan utilizing mass transit services and modes available in San Francisco, the East Bay and Marin Counties. Such a Plan should maximize inter- connective opportunities for the public to access viewing locations in affected counties;

Section 5.63 (page 5.6-38) should include implementation of a congestion management district in the northeastern quadrant of the city, perhaps expanding to the freeway off-ramps south of Market. This district could either charge a toll for vehicles entering the race impact zone, or it could simply divert visitor traffic to satellite parking lots;

217 [TR-3a] cont.

M-TR-1a (page 5.6-80) should explicitly include and describe the partial or complete closure of streets to private auto traffic, including the Embarcadero, to ensure access for transit, emergency vehicles, pedestrians and bicycles;

218 [TR-3d]

The DEIR (5.6.1) fails to include the People Plan as an intrinsic part of the written DEIR. Since the People Plan is defined as part of the project, subsequent mitigation measures must be included as part of the Transportation Management Plan, include traffic and parking management plans and a transit plan including proposed mass transit improvements. These should include the following:

a) Traffic Monitoring and Management Plan:

- M-TR-1a (page 5.6-80) should include and describe implementation of street closures along The Embarcadero and other impacted routes to all motorized transportation except public transit vehicles on Event days.
- M-TR-1a (page 5.6-80-) should evaluate measures needed to control all categories of motor traffic in the affected areas, including adjacent neighborhoods.
- M-TR1a (page 5.6-80) should define or consider or implement a Congestion Management Plan for all personal vehicles entering the waterfront area through the adjacent neighborhoods.
- M-TR 1c (page 5.6-81) should evaluate how much public parking and public seating will actually be available to the public, versus corporate or private, and understand that all unmet public needs will impact the nearby neighborhoods, especially in the hills, for parking and viewing.
- M-TR -26b(page 5.6-103) should specify employment of adequate traffic enforcement officers to maintain orderly flow of traffic on directed routes and in nearby neighborhoods to mitigate gridlock, not just key intersections

219 [TR-3a]

Environmental Council Comments
America's Cup DEIR Case No. 2010.0493E
Revised August 29, 2011

- TR-1 through TR-12 (page 5.6-73 should provide for synchronization of traffic lights to address traffic direction at peak entry and exit on race days/times on main arteries and in nearby neighborhoods.
- TR-58 (page 5.6-121) should identify the specific neighborhoods that will be negatively impacted by traffic congestion in adjacent nearby neighborhood areas, and what traffic management personnel will be provided to enforce existing traffic and parking laws.
- TR-32 (page5.6-107) should determine and identify which streets in adjacent neighborhoods should or could be closed to traffic for specific hours during race days to relieve overcrowding and unsafe pedestrian conditions. Please assess closing personal vehicle access to Telegraph Hill and Pioneer Park on race days and allowing access by Muni (#39 Coit) only. Lombard Street between Larkin and Leavenworth should be closed to through traffic during race days. Where possible and feasible and where property is not in jeopardy of being damaged, use closed streets as public viewing locations, especially in hilly areas.

219 [TR-3a] cont.

b) Parking mitigation:

- In order to encourage public transit use for access and to avoid exacerbating traffic conditions, the Project Description should consider alternative Event-approved public uses of SWL 330 besides Event parking on race days (e.g., vendors, resting areas, restrooms, etc.). Ref. Table 3-10, page 3-64
- While provisions for equipment and supply drop-off should be made for those piers dedicated to support of the Event, personal parking should not be permitted.

220 [TR-10]

c) A Transit Plan must be developed and implemented for the Northeast Waterfront to connect the neighborhood residents and visitors to the Event that should include:

- A funding and resource plan that ensures minimal adverse impacts on overall non-event related MUNI and other transit services. This includes, but is not limited to, impacts on transit revenue streams, and availability of transit operators, supervisors, vehicles and other resources.
- Restoration of service to and from the Embarcadero area similar to that provided by MUNI routes 10 and 12 prior to December 2009.
- Investments to improve Transit Signal Priority and other Transit System Management measures along the North and South Embarcadero and elsewhere to improve Muni reliability and efficiency
- Plans for Cable Car system reconstruction that avoid closures during the two AC34 seasons.
- Plans for water taxis connected to other public transit

221 [TR-4a]

- Expand and ensure Muni service to Aquatic Park, Fort Mason, the Presidio and Crissy Field is enhanced on a permanent basis providing access from all neighborhoods in San Francisco, with particular emphasis given to neighborhoods farthest away with least access to our National Parks. **221** [TR-4a] cont.
- Opportunities for shared bus stops with private vanpools and shuttles.

d) A Parking Management Plan must be developed and implemented that:

- Explores the conversion of existing on-street parking spaces to stops for shuttles and vanpools.
- If congestion management district is not implemented, develops a plan to restrict access to parking garages/lots along or near The Embarcadero before and during race hours. **222** [TR-10]
- Minimizes parking on piers to reduce conflict with pedestrian traffic on Herb Caen Way.
- Provides teaching moments by requiring that any/all cars allowed to be parked on the piers during Race Days be limited to those from City Car share and/or be alternative fuel vehicles.

e) A Pedestrian Management Plan must be developed and implemented that:

- Minimizes conflicts between pedestrian and auto traffic by limiting parking on piers between Pier 40 and Pier 35;
- Reduces conflicts between vendor operations and pedestrian traffic by locating vendors on the inland side of the Embarcadero or within bulkhead buildings and pier structures along Herb Caen Way. No new kiosks or carts should be allowed on Herb Caen Way. **223** [TR-9b]
- Closes Jefferson Street to auto traffic during daylight hours to accommodate increased pedestrian traffic

Given that it is likely that despite all best efforts to reduce the inflow of traffic into San Francisco individuals may still choose to drive, the EIR should evaluate:

- The impacts of the AC events on traffic traveling on San Francisco bound freeways in the North, East and South Bay; and, **224** [TR-3a]
- The potential benefits of the San Francisco local hiring ordinance as a means of reducing the vehicular flow of commuting workers into the City."

The Draft Environmental Impact Report (DEIR) and the accompanying People Plan both make efforts to account for and mitigate the environmental impacts of increased transportation demand due to the America's Cup event. While NRDC will not be commenting on impacts to specific intersections or roads, we do offer the following general comments: **225** [TR-2f]

Environmental Council Comments
America's Cup DEIR Case No. 2010.0493E
Revised August 29, 2011

The short planning horizon means that programmatic approaches to transportation, including a strong emphasis on transportation demand management, are the areas that deserve attention and resources.

Given that the quick timeline for the review and preparation of the America's Cup forestalls the possibility of significant new capital projects to address transportation impacts, the America's Cup provides an excellent opportunity for San Francisco to test, refine and expand a number of approaches to transportation demand management. As the DEIR shows, parking enforcement and variable parking pricing are particularly important, both on-street and in off-street facilities. The DEIR's parking demand analysis might benefit from including proposed prices for parking in its calculations. **225** [TR-2f] cont.

The highest-priority transportation measure San Francisco should address is securing the cooperation of the regional transit agencies that serve San Francisco to expand service.

The DEIR and the People Plan rest significantly, if not primarily, on the assumption of significant cooperation between MUNI and the whole array of transit agencies that serve the city. Until clear and executed cooperation agreements are in place, the public will understandably remain concerned about the environmental impacts of transportation during the America's Cup event. **226** [TR-2f]

San Francisco, however, should not have to secure this cooperation alone. The Metropolitan Transportation Commission has an important role to play in bringing agencies together and marshalling their resources. Such active cooperation could see the America's Cup leaving a legacy of greater operational cooperation among transit agencies, not only through expanding the use of ClipperCards and other passes, but by easing inter-agency transfers and other practices with the eventual goal of a united fare structure for all of the region's agencies.

The America's Cup will rely significantly on walking and biking as modes of transportation. Improving facilities and ensuring safety are paramount concerns.

The DEIR states that 85% of trips into Superdistrict 1 are already non-auto, and together with transit, provision must be made for walking and biking. This not only means sensitive treatment of sidewalks and roads to provide smooth pedestrian and bicycle flow, but also efforts to ensure pedestrian and bicyclist safety at intersections to minimize conflicts with automobiles. San Francisco should expand its bike sharing pilot in anticipation of the America's Cup. It should also provide more secure bike parking, which is already lacking in many of the areas designated as entry points to the city and the event (such as the CalTrain station). **227** [TR-8a]

7. SECTION 5.7 - NOISE & VIBRATION

COMMENT NV-1: DEIR FAILS TO ADEQUATLY ANALYZE OR EFFECTIVELY MITIGATE THE CUMULATIVE IMPACT OF MULTIPLE NOISE SOURCES ON NEIGHBORHOODS NEAR THE WATERFRONT.

The DEIR fails to evaluate or even consider the cumulative effects on nearby neighborhoods of adding noise of three (3) AC-sponsored helicopters, event crowd noise, amplified sound, low frequency vibrations from boat and ship motors and/or generators on the water, air horns, and the noise of traffic, to the level of noise in nearby neighborhoods. Additionally, noise from the Coast Guard helicopter as well as the KPIX news helicopter will need to be included in the evaluation of cumulative sources and the impacts of noise.

EACH of the NEW factors added as a result of the AC 34 separately may be less than significant. However, the cumulative effect of all the added noise must be taken into consideration as combined they will have a significant and cumulative effect on nearby neighborhoods.

The level of noise one-mile up the hill, at selected nearby hillside neighborhood intersections and known visitor locations, must be measured to benchmark existing noise levels during the week and on summer weekends. This would enable a proper evaluation of the full impacts of noise on these neighborhoods as a result of AC 34.

Those impacts should then be charted and analyzed for cumulative and significant impacts over the duration of the week when races and entertainment all are occurring and which will occur over multiple consecutive days starting at 9:30 AM and continuing until 11PM.

228 [NO-7]

In addition to the mitigation measures listed in the DEIR, the following are organized by source and informed by residents with knowledge of likely noise-related impacts within residential areas:

Loudspeakers

- No amplified events post 10 PM;
- Range and angles of amplifiers must to be respectful of sound carrying across water and to residential areas on hills;
- The angle at which amplification is set must minimize noise impacts on nearby neighborhoods, especially those on hilly terrain; and,
- Baffling must be used to mitigate volume and reverberation.

Motorbike/motorcycles amplified exhaust/muffler systems and air horns on vehicles.

- Legal noise limits must be enforced by SFPD for single or packs of motorcycles and/or street bikes and/or vehicles equipped with air horns. Multiple hillside neighborhoods suffer from

229 [NO-7]

COM-144

Environmental Council Comments
America's Cup DEIR Case No. 2010.0493E
Revised August 29, 2011

excessive noise from these sources during crowded events now.

Aviation (helicopters, flybys, hovering, circling)

- Designate no fly zones and hours except for authorized, contracted media coverage;
- Establish flight paths for aviation to minimize buzzing/hovering over neighborhoods;
- No helicopters hovering over Telegraph Hill, which is also a safety hazard;

229 [NO-7] cont.

To the above previously proposed mitigation measures, we offer the following additional Proposed Mitigation Measures intended to minimize impact to noise and vibrations on nearby neighborhoods:

- Evaluate the level of noise at selected nearby hillside neighborhood, one (1) mile up the hill from the waterfront edge for cumulative impacts from all sources of noise. Such evaluation will include corridors with direct access to Bay Street as well as known visitor destination corridors such as the area around Lombard at Larkin, Hyde and Leavenworth as well as water facing neighborhoods around Coit Tower.
- Measure noise and vibration levels to benchmark existing levels during the week and on summer weekends. This would produce a baseline decibel level onto which the other sources of AC 34 could be added to produce a proper evaluation of the full impacts of noise on these neighborhoods as a result of AC 34.
- Chart impacts and analyze for cumulative and significant impacts over the duration of the week when races and entertainment all are occurring and which will occur over multiple consecutive days starting at 9:30 AM and continuing until 11PM.
- Implement baffling that can temporarily shield the nearby neighborhoods from the cumulative impacts of all sources of noise that will be amplified over the water and reflected uphill.

230 [NO-7]

COMMENT NV-2: DEIR FAILS TO IDENTIFY NOISE IMPACTS OF LONG-TERM DEVELOPMENT (PAGE 5.7-50

The DEIR incorrectly assumes a less than significant impact for the long-term project, when in fact the impact is unknown but potentially significant.

231 [NO-8]

COMMENT NV-3: DEIR FAILS TO FULLY IDENTIFY OR MITIGATE IMPACT TO HISTORIC RESOURCES IMPACTED BY GROUNDBORNE VIBRATION

The DEIR discloses that ground borne vibration generated from pile driving activities during construction near Red's Java House at Piers 30-32, near Pier 28, and from the repair of bulkhead wharf Section 10 could exceed the ground borne vibration criteria for fragile structures, such as **Red's Java House** and **Pier 28**, could be a potentially significant impact. The

232 [NO-1]

document should provide a figure identifying the impact on all structures in the Embarcadero Historic District

Mitigation Measure M-NO-3 (DEIR, p 5.7-40) is inadequate because it fails to specify what "corrective measures" would be required to minimize risk to historic structures in the event that monitoring results show unacceptable ground movement. 232 [NO-1] cont.

COM-145

8. SECTION 5.8 – AIR QUALITY

COMMENT AQ-1: INADEQUATE APPROACH TO ANALYSIS (SEE SECTION 5.8.3.2)

The analysis of incremental cruise ship hoteling emissions at Pier 27 during 2013 as detailed in Appendix AQ appears to underestimate the total loss of emissions reductions and also fails to detail necessary mitigations for the increased emissions. The emissions data a needs to be re-evaluated and compared to and aligned with estimates by air quality regulators that provided grant funding for the project in order to ensure accuracy and meet CEQA requirements. The discrepancies must be explained in the EIR. 233 [AQ-2]

It also appears that the DEIR fails to account for the loss of shoreside power emissions reductions as a result of cruise ship terminal construction and preparation for the America's Cup Village at Pier 27 during 2012. We could not find these emissions accounted for anywhere in the DEIR.

COMMENT AQ-2: POTENTIALLY INADEQUATE APPROACH FOR CALCULATING OPERATIONS EMISSIONS – CRUISE TERMINAL PROJECT (SEE SECTION 5.8.3.2)

> *Cruise Terminal project operational emissions were estimated based on projected ship call data provided by the Port of San Francisco. Shore power is assumed to be unavailable in 2012 and 2013 due to construction and AC34-related activities at Pier 27.*

Projected cruise ship calls are described in the project description as varying from 40 to 80 calls per year, but it is not clear in the DEIR which number of calls was utilized to estimate the air emissions impacts from the project. This needs to be clearly described in the DEIR. 234 [AQ-2]

Also, if the shorepower is unavailable in 2014 or beyond due to cruise terminal construction or other unexpected reasons, then these additional impacts must be quantified and analyzed to meet CEQA requirements. Resumption of shoreside power by a date certain should be specified as a mitigation measure and included in the MMRP.

COMMENT AQ-3: POTENTIAL UNDERESTIMATION OF CRUISE TERMINAL EMISSIONS (SEE SECTION 5.8.3.3)

> *Impact AQ-4: Operations of the America's Cup facilities would violate an air quality standard or contribute substantially to an existing or projected air quality violation. (Significant and Unavoidable with Mitigation)*

The analysis of incremental cruise ship hoteling emissions at Pier 27 during race operations in 2013 as detailed in Appendix AQ appears to underestimate the total emissions reductions losses and needs to be re-evaluated in order to ensure accuracy and meet CEQA requirements. 235 [AQ-2]

COMMENT AQ-4: DISAGREEMENT WITH IMPACT SUMMARY SECTION (PAGE 5.8 – 34) 236 [AQ-5]

Mitigation Measure M-AQ-4 (Emission Controls for Race-Sponsored Spectator Vessels) would reduce emissions of ROG, NOx, PM10, and PM2.5 from those presented in Table 5.8-7. However, this measure would only apply to commercial, race-sponsored vessels that would be under the contract authority of the Event Authority and could not be implemented on private vessels. Race sponsored spectator vessels would be regulated at the state and federal levels, rendering implementation of mitigation measures for emissions reductions from these vessels infeasible.

We disagree that air quality mitigations for marine vessels could be implemented only on commercial, race-sponsored vessels. The Port of San Francisco and the City of San Francisco have the authority to establish "conditions of port entry" through Memorandums of Understanding, berthing agreements, lease agreements, mooring and anchoring agreements with vessel owners and operators, including private yachts that may want to dock or anchor in city waters. One example is the Port of SF's berthing agreements with cruise ships not to discharge in the Bay (cited in the DEIR). Los Angeles and Long Beach Ports have imposed conditions on U.S. and foreign-flagged ships such as reducing vessel speeds.[11]

236 [AQ-5] cont.

While state, national and international regulations govern fuels and engines on commercial marine vessels, the city and the port can establish conditions for race sponsored vessels to meet and go beyond regulations to use cleaner fuels and engines and hook up to shoreside power to prevent and reduce air pollution from marine diesel engines during AC34. Therefore the DEIR is inaccurate when it states that "implementation of mitigation measures for emissions reductions from these vessels [is] infeasible."

The America's Cup must not rely on underfunded and unreliable state and federal enforcement of vessel emissions. Any and all state and federal agents will be struggling to deal with the estimated 1.6 million spectators and will focus on boating safety and enforcement of safety laws, not emissions standards. America's Cup can mitigate for spectator vessel emissions by funding additional enforcement officers and equipment to evaluate and remedy emissions from other vessels.

The following potential mitigations for race-sponsored vessels and spectator vessels, private and commercial, super yachts including harbor craft such as ferries (described as marine vessels below) must be considered and analyzed in the DEIR:

1. Require marine vessels to hook up to shoreside electrical power when docked.
2. Require marine vessels to shut down diesel engines when anchored out on the Bay.
3. Require use of biodiesel 20 to 100 percent from environmentally sound feed stocks to reduce particulate matter and greenhouse gas emissions

237 [AQ-5]

[11] International Association of Ports and Harbors Toolbox for Port Clean Air Programs, A Reference Guide, http://iaphtoolbox.wpci.nl/index.html, Ports of Los Angeles and Long Beach Vessel Speed Reduction, http://iaphtoolbox.wpci.nl/vsp_project.html

COM-146

Environmental Council Comments
America's Cup DEIR Case No. 2010.0493E
Revised August 29, 2011

4. Require commercial harbor craft used by race management and spectator vessels (including media and VIP craft) along with barges to meet California state regulations for marine engines or employ alternative technologies in advance of regulation.[12]
5. Require the America's Cup Event Authority to utilize clean, non-diesel low-or-zero emissions vessels in its race management and spectator fleets, such as have recently been proposed for San Francisco Bay.[13] Read more in comments on Transportation and Circulation.

237 [AQ-5] cont.

COMMENT AQ-5: DISAGREEMENT WITH MITIGATION MEASURE M-AQ-4: EMISSION CONTROLS FOR RACE SPONSORED SPECTATOR VESSELS

The project sponsor shall require all contracts for race-sponsored spectator vessels to meet U.S. EPA Tier 3 or better engine standards for marine diesel engines, as feasible. Tier 3 and Tier 4 engines would reduce ROG and NOx emissions by approximately 42 percent over Tier 1 engines and PM emissions by 78 percent over Tier 1 engine emissions. Should it be determined by the project sponsor that availability of vessels with Tier 3 or Tier 4 engines for use as race-sponsored spectator vessels renders this mitigation measure infeasible, this lack of availability must be demonstrated, to the satisfaction of the Environmental Review Officer, indicating that the project sponsor has complied with this mitigation measure to the extent feasible and why full compliance with the mitigation measure is infeasible.

238 [AQ-5, AQ-6]

M-AQ-4 should require the race-sponsored spectator and all race-sponsored vessels to meet California state standards in advance or regulation. (See comment above with citation.) U.S. EPA engine regulations are not as stringent as state regulations.

The EIR should also set additional conditions to mitigate the air emissions from marine vessels operated by guests and spectators as described in the comment above.

The EIR should eliminate the use of "as feasible" in this and all mitigations.

If utilized, the definition of "feasible" must be explained.

The EIR must define who the Environmental Review Officer is and define standards for the officer's roles, responsibilities and level of expertise.

[12] California Air Resources Board, Commercial Harborcraft Regulatory Activities, http://www.arb.ca.gov/ports/marinevess/harborcraft.htm

[13] Several real-world examples of such vessels include the wind-powered, winged ferry recently proposed to Golden Gate Transit by Winged+Wing Technologies of Napa www.windwingtech.com; and the Solar Sailor of Australia http://www.solarsailor.com/, which is operating clean vessels around the world. See articles Green Ferries are Blowing in the Wind http://www.baycrossings.com/dispnews.asp?id=2514 and Future Sailing http://boatermouth.com/kimball-livingston/3815-future-sailing-winged-ferries

The EIR must define a public process for any exceptions to mitigations that might be allowed. 238 [AQ-5, AQ-6] cont.

COMMENT AQ-6: RECOMMENDATIONS FOR MITIGATION MEASURE M-AQ-5 (CLEAN DIESEL ENGINES FOR TEMPORARY POWER)

The project sponsor shall ensure that all diesel generators at AC34 event and viewing locations will conform to a level of performance equivalent to a Tier 4 interim, or Tier 2/Tier 3 (as applicable, depending on power rating) engine fitted with a Level 3 Verified

Diesel Emissions Control (VDEC), which would reduce diesel particulate emissions by at least 85 percent. Alternatively, natural gas or gasoline-powered generators may be used in lieu of diesel generators, thus eliminating DPM emissions from generators, as feasible. Should it be determined by the project sponsor that "tiered" diesel engine generators or natural gas or gasoline-powered generators would not provide the necessary power demands required, this lack of availability must be demonstrated to the satisfaction of the Environmental Review Officer, indicating that the project sponsor has complied with this mitigation measure to the extent feasible and why full compliance with the mitigation measure is infeasible. 239 [AQ-6]

The EIR should eliminate the use of "as feasible" in this and all mitigations. The cleanest possible generators must be required without exception.

If utilized, the definition of "feasible" must be explained.

The EIR must define who the Environmental Review Officer is and define standards for the officer's roles, responsibilities and level of expertise.

The EIR must define a public process for any exceptions to mitigations that might be allowed.

COMMENT AQ-7: PEOPLE PLAN AND THE SUSTAINABILITY PLAN MUST BE COMPLETE AND INCLUDED IN THE EIR IN ORDER TO BE VALID MITIGATION UNDER CEQA

The People Plan would also examine water- oriented transportation service, including ferry and excursion access to potential event viewing locations such as Treasure Island and Angel Island. In addition, the AC34 project would include implementation of a Sustainability Plan, which would promote sustainability activities throughout the event life cycle, including construction, staging and long-term development phases, and would consider factors such as local employment, carbon reduction and waste reduction, sustainable food policies, transport, and sourcing. 240 [PD-7, AQ-7]

The People Plan and the Sustainability Plan must be complete and included in the EIR in order to be a valid mitigation under CEQA.

Environmental Council Comments
America's Cup DEIR Case No. 2010.0493E
Revised August 29, 2011

The EIR must contain evidence that these two Plans are capable of implementation and will actually be implemented or they fail to provide adequate mitigation as required in CEQA. 240 [PD-7, AQ-7] cont.

COMMENT AQ-8: INADEQUATE ASSESSMENT OF POTENTIAL AIR QUALITY IMPACTS ASSOCIATED WITH THE CRUISE TERMINAL AND NORTHEAST WHARF PLAZA

Refer to Impact AQ-14:

Operation of the James R. Herman Cruise Terminal and Northeast Wharf Plaza would not violate an air quality standard or contribute substantially to an existing or projected air quality violation. (Less than Significant)

1. The determination of "less than significant" for cruise ship operational impacts is potentially inaccurate and unfounded because the project baseline is not adequately described or the air quality impacts assessed. [See Attachment 3]
2. The EIR must quantify and describe in detail Cruise Ship operations and air emissions associated with the existing baseline conditions and the proposed new project or it will be deficient for assessing and mitigating air quality impacts.
3. The EIR must define the number of ships that hook-up to shoreside power and the number that will burn marine fuels while in port now, the change in the ratio of these ships between the existing and new project and describe and analyze the effects of new state, federal and international marine fuels and engine requirements. 241 [AQ-2, AQ-4]
4. The 2012 loss of emissions reductions from shutdown of shoreside power must be accounted for in the EIR and attributed to either the AC events or the new cruise terminal. This accounting is absent from the DEIR. [See attachment 3]
5. The following statement in the EIR is inaccurate because there will be changes in terms of the size and type of ships, number that are hooking up to shoreside power or not, and the implementation of new marine engine, fuel and shoreside power regulations: "No changes in cruise ship operations described above are proposed as part of the project, other than the relocation of the cruise terminal from Pier 35 to Pier 27."
6. The EIR must assess, quantify and mitigate the air quality impacts from larger ships using larger engines, and the higher electrical loads needed in port to accommodate to needs of increased passenger loads from 2,500 to 4,000.
7. The EIR is inaccurate when it assumes that the emissions from larger ships will be mitigated by shoreside power. The EIR must consider that the larger vessels may not be able to utilize future shoreside power hook-ups and what the air quality impacts will be from ships that don't hook

up; as well as ship emissions from larger ships entering and exiting the Bay; and provide mitigation measures. **241** [AQ-2, AQ-4] cont.

COMMENT AQ-9: INADEQUATE ASSESSMENT OF CRITERIA POLLUTANTS AND OZONE PRECURSORS (SEE IMPACT SUMMARY, SECTION 5.8)

Operation of the Cruise Terminal project would result in continuation of emissions of criteria pollutants and ozone precursors associated with cruise ship operations at the existing cruise terminal.

The EIR must quantify and assess the emissions of criteria pollutants and ozone precursors associated with cruise ship operations at the existing cruise terminal and how these emissions will change when shoreside power is shut down in 2012, 2013 and possibly 2014 and beyond. **242** [AQ-2, AQ-4]

The EIR must compare the baseline conditions to new conditions at the proposed new project in 2014 and beyond, considering new regulations for marine fuels and engines and for shoreside power that are going into effect.

The EIR must assess the increased emission from larger cruise ships that will enter the Bay, accounting for transit emissions; and how many of those ships will hook – up to shoreside power.

COMMENT AQ-10: CONCLUSIONS ASSOCIATED WITH IMPACT AQ-15 NOT SUPPORTED BY FINDINGS OF THE DEIR

The following finding of less than significant impact and the lack of a need for mitigation is not supported by the project facts and conditions: **243** [AQ-4]

Impact AQ-15: *Operation of the James R. Herman Cruise Terminal and Northeast Wharf Plaza would not expose sensitive receptors to substantial concentrations of toxic air contaminants or respirable particulate matter (PM2.5). (Less than Significant)*

COMMENT AQ-11: DEIR INCORRECTLY CITES REGULATIONS INAPPLICABLE TO CRUISE SHIPS

The DEIR incorrectly cites (and must correct) the following regulation which does not apply to cruise ships (but only to tugboats and other commercial harbor craft):

As discussed previously, the CARB implemented the Commercial Harbor Craft Regulation in January 2009 to reduce emissions of DPM and oxides of nitrogen (NOx) from diesel engines used on commercial harbor craft operated in California Regulated Waters. California Regulated Waters are all internal waters, estuarine waters, ports and coastal waters within 24 nautical miles of the California coast. The regulation includes requirements for new and in-use (existing) engines as well as monitoring, recordkeeping, and reporting requirements. These requirements will result in a gradual reduction in emissions associated with the cruise terminal and associated risk and hazards. **244** [AQ-4]

Environmental Council Comments
America's Cup DEIR Case No. 2010.0493E
Revised August 29, 2011

The appropriate state and federal regulations governing cruise ships and other marine vessels are found in part here:

Shoreside power for ships: http://www.arb.ca.gov/ports/shorepower/faq.htm#11 **244** [AQ-4] cont.

Marine fuels for ships: http://www.arb.ca.gov/ports/marinevess/ogv.htm

The U.S. EPA/international regulations coming into force for cleaner marine fuels along the West Coast and beyond are also relevant: http://www.epa.gov/oms/regs/nonroad/marine/ci/420f10015.htm

COMMENT AQ-12: INADEQUATE ASSESSMENT OF CUMULATIVE AIR QUALITY IMPACTS

The proposed AC34 project would result in both construction-related and operational cumulative air quality impacts with regard to regional emissions of criteria pollutants and their precursors in an air basin designated as nonattainment for ozone and particulate matter. Emissions of ROG, NOx, PM10, and PM2.5 would all exceed significance thresholds established by the BAAQMD to identify a cumulatively considerable contribution to air quality impacts in the region. These cumulative criteria pollutant impacts would be *significant and unavoidable*. **245** [AQ-8]

Mitigation measures for cumulative impacts would be the same as those identified for significant unavoidable Impacts AQ-2, AQ-4, and AQ-5. Although AC34 events would be temporary, they are identified as contributing to a significant cumulative air quality operational impact.

COMMENT AQ-13: INADEQUATE MITIGATION ASSOCIATED WITH IMPACT C-AQ-2

Impact C-AQ-2: The proposed Cruise Terminal project, in combination with other past, present, and reasonably foreseeable future projects, would result in significant adverse cumulative impacts on air quality. (Significant and Unavoidable with Mitigation)

The finding of significant and unavoidable impacts with mitigation is not substantiated in the DEIR as it overlooks a number of mitigations for reducing and preventing air emissions from cruise ships, such as avoiding a shutdown of the shoreside power installation and other mitigations mentioned in previous comments. [See attachment 3] **246** [AQ-8]

The mitigation measures proposed are inadequate and do little, if anything, to mitigate air quality impacts.

The cruise terminal operations average daily and maximum annual baseline and future (2014) emissions table needs to include emissions for 2012 and 2013 in order to provide an adequate assessment and comparison of the project impacts to air quality.

9. SECTION 5.9 - GREENHOUSE GAS EMISSIONS

COMMENT GHG-1: THE DEIR FINDING THAT THE PROPOSED PROJECT WOULD NOT GENERATE GREENHOUSE GAS EMISSIONS THAT WOULD HAVE A SIGNIFICANT IMPACT ON THE ENVIRONMENT OR CONFLICT WITH ANY POLICY PLAN OR REGULATION ADOPTED FOR THE PURPOSE OF GREENHOUSE GAS EMISSION IS FLAWED.

This finding depends on several flawed factors.

1) The development and implementation of a Sustainability Plan, a Waste Management Plan and a People Plan. The Sustainability Plan has not yet been released for review as part of this process. The Waste Management Plan, as stated elsewhere, relies almost wholly on recommended rather that required actions. The People Plan similarly contains few requirements to actively reduce auto use.

2) The statement on Page 5.9-29;

> "Other sources of GHG emissions that would not be reduced through compliance with the City's *Strategies to Address Greenhouse Gas Emissions* include mobile boat sources from private spectator vessels. These emissions sources for vehicles and marine vessels are regulated at the state and federal level by United States Environmental Protection Agency (U.S. EPA) and California Air Resources Board (CARB). As discussed in Air Quality, the project sponsor has no authority or regulation over private spectator vessels and therefore cannot implement measures that would reduce their GHG emissions."

We strongly disagree with this statement – see COMMENT AQ-4. Moreover, by eliminating the Emissions of more than 2200 visiting watercraft, this document seriously undercounts the carbon footprint of the event.

247 [GG-2a, GG-2c, GG-3, PD-7]

COM-149

Environmental Council Comments
America's Cup DEIR Case No. 2010.0493E
Revised August 29, 2011

10. SECTION 5.10 -- WIND

The DEIR's analysis and conclusions regarding the potentially significant wind impacts to public areas at Piers 27-29 that would result from the removal of Pier 27 and truncating the Pier 29 shed, and from the construction of the proposed cruise terminal, are not supported by the information contained in the DEIR. Further, the DIER's conclusions that all significant wind impacts to public areas at Piers 27-29 would be less than significant relies on ineffective mitigation measures. In fact, elements of the proposed mitigation measures themselves may have a significant impact on historic resources that must be analyzed. (Impact WI-1 and Impact WI-2)

The DEIR analysis of the project's wind impacts that could result from future long-term development is defective in purporting to analyze future impacts that may result from unknown projects in unknown locations and then concluding that all possible wind impacts could be reduced to less than significant by "assuming conformance" in the future with guidelines and policies (Impact LT-WI).

248 [WS-1, WS-5, WS-6, WS-7]

COMMENT WI-1: THE DEIR'S ANALYSIS OF THE PROJECT'S WIND IMPACTS IS INFORMATIONALLY DEFICIENT.

1. The DEIR's analysis is informationally deficient in not conducting a wind tunnel test for the currently proposed project at Piers 27-29.

As shown by the following excerpts from the DEIR's description of its approach to the analysis, it derived its data and analysis entirely from a review of a 2004 wind analysis on a significantly different project. No wind tunnel test was conducted for the currently proposed project at Piers 27-29.

DEIR, p. 5.10-1:

> "Environmental Science Associates (ESA) performed a wind analysis and evaluation <u>without conducting a wind-tunnel test for the proposed AC34 and Cruise Terminal project</u> (2011 Memorandum). <u>This analysis relied in part on wind test data obtained from prior wind tunnel tests performed for a prior mixed-use recreation project on Piers 27-31 proposed in 2004</u> (referred to in this section as the 2004 mixed-use project)." [Emphasis added.]

> "However, the 2004 mixed-use project that was previously studied <u>differed in several important ways from the currently proposed project at Piers 27-29, especially with regard to the proposed cruise terminal and changes to the Pier 29 shed</u>." [Emphasis added.]

DEIR, p. 5.10-8:

> "Of the project components discussed above, <u>those changes expected to alter wind conditions on Piers 27-29 would be</u> (1) removal the eastern portion of the Pier 29 shed; (2) removal of the entire existing Pier 27 terminal and Pier 27 Annex office building; (3) construction of the proposed cruise terminal building...; and (4) construction of the 2 1/2 acre Northeast Wharf Plaza..."

249 [WS-1]

"The...analysis of the proposed project's expected wind conditions was derived entirely from review of the 2004 project test and *interpretation* by ESA of the effects of the differences between the 2004 mixed-use project and the proposed project on those values. The results of the project's wind comfort and wind hazard analyses are discussed here, but are not presented in Table 5.10-1." [Emphasis added.]

249 [WS-1] cont.

The DEIR's reliance on a review and "interpretation" by ESA of a wind tunnel test conducted on a previous, entirely different project is inadequate, especially given the fact, as confirmed by the DEIR, that the proposed 2004 mixed-use recreation project on Piers 27-31 differed from the currently proposed project in important ways that are "expected to alter wind conditions on Pier 27-29." The DEIR fails to even disclose how the 2004 project physically differed from the currently proposed project.

A wind tunnel test for the currently proposed project at Piers 27-29 must be conducted and the results presented and analyzed in the EIR.

2. The DEIR's analysis of the wind impacts is deficient because it does not contain adequate detailed, information on the proposed project at Piers 27-29.

Before an accurate analysis of the wind impacts of the proposed project at Piers 27-29 can be conducted, there must be sufficiently detailed information as to the design of the various elements proposed for the site. As pointed out in our comments on the Cultural Resources section of the DEIR:

- There is no specific design in the DEIR for "truncating" the end of the historic Pier 29 or even information as to exactly how much of eastern portion of the Pier 29 shed will be removed.
- There is no specific design in the DEIR for the proposed 2 1/2 acre Northeast Wharf Plaza, which according to the DEIR may contain up to 4 new buildings and proposes the removal of the addition to the historic Belt Railroad Office Building.
- There is no specific design in the DEIR for the future use of the open space at the end of Piers 27-29.
- The proposed new cruise terminal will have a much smaller footprint that the existing Pier 27 shed.

250 [WS-1]

Without a complete and accurate description of the projects proposed for Piers 27-29, the wind impacts of the proposed project cannot be reliably assessed and it is impossible to judge whether any mitigation measures are likely to be effective in either substantially reducing significant impacts or reducing them to less-than-significant.

COMMENT WI-2: THE DEIR FAILS TO ADEQUATELY ANALYZE AND CONSIDER THE PROJECT'S SIGNIFICANT WIND IMPACTS AS REQUIRED BY CEQA.

251 [WS-1, WS-2]

The "Significance Criteria" used to determine a project's impacts related to wind is inadequate and the DEIR's analysis fails to consider the full extent of the project's wind impacts.

COM-150

Environmental Council Comments
America's Cup DEIR Case No. 2010.0493E
Revised August 29, 2011

DEIR, p. 5.10-5:

"The City has not formally adopted significance standards for impacts related to wind, but generally considers that implementation of the project would have significant impacts if it were to alter wind in a manner that substantially affects public areas. [Emphasis added.]

"An indication of such an alteration would be if the wind speed were to be increased so that the hazard criterion established by Planning Code Section 148 would be exceeded, or if the size of the area that would be affected by the wind hazard were to be substantially increased. An alteration of the wind that would cause new exceedances of Planning Code Section 148 comfort criteria, but not the wind hazard criterion, in public areas would not be considered to have a significant impact." [Emphasis added.]

The DEIR fails to disclose that, under Planning Code Section 148[14], a project would exceed the hazard criterion if it would cause equivalent wind speeds to reach or exceed the hazard level of 26 mph for a single hour of the year. Further, that if a project would cause such an exceedance, the City requires a mitigation measure requiring that the project buildings be designed to avoid an exceedance."

251 [WS-1, WS-2] cont.

The DEIR provides no accurate and complete information as to the exact locations and extent of each point where the wind speeds would reach or exceed the hazard level of 26 mph for a single hour of the year. Instead, it includes the following general statements as to hazard winds:

DEIR, p. 5.10-11:

"...due to proposed opening up of the end of Piers 27-29, a 3-acre area at the end of these piers would be exposed to the same winds that now cause a hazard at Pier 27's northeastern apron, Point 20. Therefore, it is expected that a number of new wind hazard locations would be created within the 3-acre area north of the proposed cruise terminal building, such as in the vicinity of Points 16-22. This 3-acre area would initially be used during the AC34 events by spectators. Following the AC34 events, this area would have limited public access due to its dual use as a secured area when cruise ships are in port. If hazardous winds coincide with public access to this area, safety hazards could result.

"In addition, it is possible that wind hazards would be created at the north end of the proposed cruise terminal GTA (between the north end of the proposed cruise terminal building and the north end of the truncated Pier 29 shed). This area would be open to the public, so high winds

[14] **Planning Code Section 148** establishes ground-level wind current comfort levels of 11 mph wind speed in areas of substantial pedestrian use and 7 mph in public seating areas that should not be exceeded more than 10 % of the time year round, between 7 am and 6 pm. It further provides that no exception shall be granted and no building or addition shall be permitted that causes equivalent wind speeds to reach or exceed the hazard level of 26 miles per hour for a single hour of the year.

that occur there could result in safety hazards to the public."

At such time as an accurate project description for the proposed project at Piers 27-29 has been made available and a wind-tunnel test has been performed, the DEIR must then accurately identify in the EIR each point on the project site (as well as on The Embarcadero and surrounding Pier 31) where the project would cause wind speeds to reach or exceed the hazard level of 26 mph for a single hour of the year. **251** [WS-1, WS-2] cont.

COMMENT WI-3: THE DEIR FAILS TO ADEQUATELY ANALYZE AND CONSIDER THE SUITABILITY OF PIERS 27-29 FOR ALL PROPOSED USES WITH RESPECT TO WIND LEVELS.

Without adequate project information and wind analysis (Comments WI-1 and WI-2, above) required to property assess the wind impacts resulting from the project, the DEIR cannot adequately analyze and consider the suitability of Piers 27-29 for the proposed new uses makes. None the less, the DEIR presents general statements showing that wind speeds resulting from the proposed project would be significantly higher than under existing conditions, adding new hazard winds, new areas where accepted standards relating to pedestrian comfort are exceeded and areas where existing exceedances are increased. As a result, there is no factual basis in the DEIR for its conclusion that Piers 27-29 are suitable for the proposed new uses.

The accepted standards relating to wind speeds and pedestrian comfort levels are the following: **252** [WS-2, WS-4]

DEIR, p. 55.10.3:

> "Winds up to 4 mph have no noticeable effect on pedestrian comfort. With speeds from 4 to 8 mph, wind is felt on the face. Winds from 8 to 13 mph will disturb hair, cause clothing to flap, and extend a light flag mounted on a pole. Winds from 13 to 19 mph will raise loose paper, dust and dry soil, and will disarrange hair. For winds from 19 to 26 mph, the force of the wind will be felt on the body. With 26 to 34 mph winds, umbrellas are used with difficulty, hair is blown straight, there is difficulty in walking steadily, and wind noise is unpleasant. Winds over 34 mph increase difficulty with balance and gusts can blow people over.[15]

Section 148 of the San Francisco Planning Code establishes ground-level wind current comfort levels of 11 mph wind speed in areas of substantial pedestrian use and 7 mph in public seating areas that should not be exceeded more than 10 % of the time year round, between 7 am and 6 pm. It further provides that no exception shall be granted and no building or addition shall be permitted that causes equivalent wind speeds to reach or exceed the hazard level of 26 miles per hour for a single hour of the year.

[15] Lawson, T.V. and A.D. Penwarden, "The Effects of Wind on People in the Vicinity of Buildings," Proceedings of the Fourth International Conference on Wind Effects on Buildings and Structures, London, 1975, Cambridge University Press, Cambridge, U.K., 605-622 1976.

COM-151

COMMENT WI-3A: SIGNIFICANTLY HIGHER WIND SPEEDS ON THE PROPOSED NEW OPEN AREA OF PIERS 27- 29 ARE NOT ADEQUATELY ANALYZED AND PRESENTED IN THE DEIR.

The DEIR concludes as to the project's overall impacts on pedestrian comfort levels in the proposed new open areas on Piers 27-29:

> "With the proposed project, much of the open area of Piers 27- 29 that is currently sheltered from the wind by the Pier 27 and Piers 29 sheds would be exposed to the Bay. The major structures that currently shelter the open valley area would be removed (Pier 27 shed) or truncated (Pier 29 shed). Consequently, wind speeds in the open valley area would be higher than under existing conditions; the average of the wind speeds exceeded 10 percent of the time for all test points are expected to increase to 15 mph or more." **253** [WS-1, WS-3]

The DEIR neglects to tell the reader that this translates to increases in the average of the wind speeds at the four identified points in the open valley area to at least 29 mph, 30 mph, 34 mph (hazard wind) and 22 mph, clearly exceeding the Planning Code's ground-level wind current comfort levels of 11 mph wind speed in areas of substantial pedestrian use and creating 3 new points where hazard wind speeds are exceeded.

An accurate assessment of the wind impacts to the proposed open areas on Piers 27-29 is not provided in the DEIR (Comments WI-1 and WI-2, above). At such time as an accurate project description for the proposed project at Piers 27-29 has been made available (including detailed plans for the truncated Pier 29 Shed and the proposed Northeast Wharf Plaza) and a wind-tunnel test on the proposed project has been performed, the DEIR must identify each point on the proposed new open areas on Piers 27-29 where the project would alter wind speeds.

COMMENT WI-3B: Increased wind speeds in public areas resulting from the proposed project are understated and are not adequately analyzed and presented in the DEIR.

As to wind conditions in "public areas," the DEIR provides evidence that there would in fact be increased wind speeds exceeding wind comfort levels along The Embarcadero sidewalks (new wind speeds of 15-19 mph) and in the proposed Northeast Wharf Plaza area (new wind speeds of 17 to 19) mph, then improperly concludes based on the 2004 analysis of a different project that such increases are insignificant because these places were already windy: **254** [WS-3]

DEIR, p. 5.10-10:

> "[T]he proposed project would not cause new exceedances of pedestrian comfort levels along The Embarcadero because the winds at those points *already* exceed that criterion." [Emphasis added.]
>
> "The project would not result in any new pedestrian comfort exceedances in the proposed Northeast Wharf Plaza, because winds at those points *already* exceed the pedestrian comfort

criterion." [Emphasis added.]

An accurate assessment of the wind impacts to these public areas is not provided in the DEIR (Comments WI-1 and WI-2, above). At such time as an accurate project description for the proposed project at Piers 27-29 has been made available (including detailed plans for the truncated Pier 29 Shed and the proposed Northeast Wharf Plaza) and a wind-tunnel test on the proposed project has been performed, the DEIR must identify each point on Piers 27-29 and on surrounding public areas on Pier 31 and along The Embarcadero where the project would alter wind speeds. **254** [WS-3] cont.

The DEIR's comparisons -- in numerous places -- of the proposed project's exceedances to those of the 2004 project is misleading and inaccurate. The wind impacts that may have resulted from the 2004 project have nothing to do with the currently proposed project.

COMMENT WI-3C: New wind hazard locations within the proposed new 3-acre open space at the end of Piers 27-29 and in the proposed cruise terminal Ground Transportation Area are not adequately analyzed and presented in the DEIR.

As to the wind speeds on the proposed new 3-acre open space at the end of Piers 27-29, the DEIR states as follows:

DEIR, p. 5.10-11:

> "Wind speeds on Pier 29's eastern apron ... are expected to change substantially under the proposed project. Removing the Pier 27 shed and truncating the Pier 29 shed would remove all wind shelter from this approximately 3-acre area. The result is expected to be that wind speeds over this entire 3-acre area ... would increase to speeds similar to that measured at the Bay end of Pier 29, namely 19 to 25 mph. In addition, winds may be accelerated further in the narrow part of the valley between the proposed cruise terminal building and the end of the truncated Pier 29 shed, bringing the speeds to the higher end of that range."
>
> "[D]ue to proposed opening up of the end of Piers 27- 29, a 3-acre area at the end of these piers would be exposed to the same winds that now cause a hazard at Pier 27's northeastern apron.... Therefore, it is expected that a number of new wind hazard locations would be created within the 3-acre area north of the proposed cruise terminal building.... This 3-acre area would initially be used during the AC34 events by spectators. Following the AC34 events, this area would have limited public access due to its dual use as a secured area when cruise ships are in port. If hazardous winds coincide with public access to this area, safety hazards could result.
>
> "In addition, it is possible that wind hazards would be created at the north end of the proposed cruise terminal GTA (between the north end of the proposed cruise terminal building and the north end of the truncated Pier 29 shed). This area would be open to the public, so high winds that occur there could result in safety hazards to the public."

255 [WS-3]

Environmental Council Comments
America's Cup DEIR Case No. 2010.0493E
Revised August 29, 2011

An accurate assessment of the wind impacts to the proposed new 3-acre open space is not provided in the DEIR (Comments WI-1 and WI-2, above). At such time as an accurate project description for the proposed project at Piers 27-29 has been made available (including detailed plans for the truncated Pier 29 Shed and the proposed Northeast Wharf Plaza) and a wind-tunnel test on the proposed project has been performed, the DEIR must identify each point on the proposed new 3-acre open space where the project would alter wind speeds. **255** [WS-3] cont.

COMMENT WI-3D: There is no factual basis in the DEIR to support a conclusion that the proposed project at Piers 27-29 is suitable for all proposed uses.

As to the relationship of the winds and the uses proposed for the site, DEIR says:

> "Afternoon outdoor activities would be essential components of the proposed AC Village at Piers 27-29 during the AC34 events in 2013, as well as future planned public uses of the Piers 27-29 open spaces following the AC34 events. The wind data indicate that west and west-northwest winds would be strongest during the afternoons and evening hours." (DEIR, p. 5.10-12) [Emphasis added.]

As described below, the DEIR concludes that in spite of the proposed project's wind impacts on the site proposed for the AC34 Village, it is still suitable in the short term for the AC34 events, with mitigation (Mitigation Measure M-W1-1). However, even the general information presented in the DEIR (even absent accurate project-specific wind data) shows that in the long-term, the wind impacts resulting from the proposed project will render the proposed future use of the site for public open space much less desirable. When the Northeast Wharf Plaza was proposed as a new public open space a decade ago and made a part of the adopted BCDC Special Area Plan (SAP), it was never anticipated that the quality of the open space would be substantially diminished by increased the wind impacts. **256** [WS-4]

Consideration of the cruise terminal, the Northeast Wharf Plaza, and the AC34 events jointly as dependent projects in this DEIR is not only confusing to the public and decision makers, but it forecloses adequate review of alternatives and mitigation measures for either project. In particular, the DEIR fails to look at feasible alternative locations for the short-term America's Cup Village that would meet most of the America's Cup Event Authority's objectives, while protecting the long-term future public open space opportunities and benefits at Piers 27-29.

The DEIR's analysis of "Site Suitability for Proposed Uses" (DEIR, p. 5.10-12) does not support a finding that Piers 27-29 are suitable for the AC34 events.

As to the suitability of Piers 27-29 for the AC34 events, the DEIR concludes that the site is suitable for the AC34 events, with mitigation (Mitigation Measure M-W1-1), in spite of (or because of) significant winds on the site:

DEIR, p. 5.10-13:

"Wind is a normal part of the Bay environment, and would be essential for the proposed AC34 races; in general, the stronger the wind, the better the racing conditions would be for the AC34 boats, even if not necessarily better for the comfort of spectators. However, given the nature of the event, wind comfort may not be the spectators' highest priority. Furthermore, as stated under significance criteria, wind comfort exceedances would not be significant impacts; only wind hazards would be significant impacts. The wind hazard to individuals only would occur if the wind hazard speeds occurred when people are present."

"Nevertheless, potential impacts could occur if the winds are much stronger than anticipated and cause wind hazards or cause damage to the proposed AC Village tents and other temporary structures."

"Placing proposed elevated spectator seating at heights up to 30 to 40 feet above the deck of the pier (at or near the height of the adjacent Pier 29 shed/cruise terminal building roofs) could expose those spectators to winds with noticeably higher speeds than the wind speeds at pedestrian height."

"However, due to the proposed expansion of the public open space at the end of Piers 27-29, the public would be afforded access to a new 3-acre area where existing and new hazardous wind conditions could occur. It is expected that a number of new wind hazard locations would be created north of the proposed cruise terminal building.... If a hazardous wind event coincides with public access to this area, safety hazards could [?]." [This sentence is unfinished in the DEIR.]

256 [WS-4] cont.

In spite of potential risk to public safety from wind hazards on the proposed site of the AC34 Village on Piers 27-29, the DEIR concludes that limiting public access "during those particular times" when higher-speed winds would cause hazardous conditions on the site "would eliminate these risks, while warning of the public of those risks would allow while warning the public of those risks would allow each person to avoid or otherwise cope successfully with them." (DEIR, p. 5.10-14) See Mitigation Measure M-W1-1 (discussed below).

The DEIR's analysis of "Site Suitability for Proposed Uses" (DEIR, p. 5.10-12) provides clear evidence that Piers 27-29 are not suitable for the proposed Cruise Terminal and Northeast Wharf Plaza. The information presented in the DIER shows that, given the new wind impacts that would result from the implementation of proposed project, Piers 27-29 would not be suitable for its proposed new public uses, illustrating that the multiple projects being considered in this EIR for Piers 27-29 (AC34 Village and a future cruise terminal and a Wharf Plaza) incompatible.

DEIR 5.10-14:

"The effect of the project would be to expand public access to the Bay shoreline where windy conditions exist, and the project would alter wind in a manner that would substantially affect existing and new public areas."

Environmental Council Comments
America's Cup DEIR Case No. 2010.0493E
Revised August 29, 2011

"...due to the proposed expansion of the public open space at the end of Piers 27-29, a new 3-acre area would be exposed to the same winds that would result in a hazard at the end of Piers 27-29. Therefore, the project would provide the public with increased access to the Bay shoreline where new hazardous wind conditions may occur."

"In addition, hazardous wind conditions may occur at the north end of the proposed cruise terminal GTA (between the north end of the proposed cruise terminal building and the north end of the truncated Pier 29 shed). This area would be open to the public, so high winds could result in safety hazards."

DEIR 5.10-15:

"The present design of the facility provides fencing for security, but it is unlikely that the security fencing would eliminate the wind hazard conditions. No other element of the proposed project would provide wind shelter for site users, so the project would increase public access to areas where wind-related safety hazards may occur. Because the higher-speed winds that can cause hazardous conditions at this site occur infrequently and for limited periods of time, the resulting safety hazards would exist infrequently and for those limited periods of time. However, the effect of the project would be to expand public access to an area where windy conditions exist, and if hazardous winds coincide with public access to this area, safety hazards could result. No other element of the proposed project would provide wind shelter for site users, so limiting public access and/or warning the public would be necessary to prevent public exposure to wind-related safety hazards."

256 [WS-4] cont.

"However, even if this is an accurate assessment of the AC34, the facts show that the proposed future wharf plaza will be substantially less desirable of an open space with the significant new winds, there are objective facts to support a conclusion proposed eventual Wharf Plaza

Given this information as to the significant wind impacts that would result from the proposed project on the future site of the proposed cruise terminal and Northeast Wharf Plaza, there is no factual basis for the DEIR's conclusion that Piers 27-29 would none-the-less be appropriate for these uses with mitigation (Mitigation Measure M-WI-2).

In fact, the information presented in the DIER shows that the proposed project would not be suitable for these proposed new public uses, showing that the multiple proposed uses at Piers 27-29 being considered in this EIR as a "project" are incompatible.

COMMENT WI-3: PROPOSED MITIGATION MEASURES ARE INEFFECTIVE TO REDUCE WIND IMPACTS TO LESS THAN SIGNIFICANT. THE DEIR FAILS TO CONSIDER MITIGATION REQUIRING THE PROPOSED PROJECT TO BE DESIGNED TO AVOID SIGNIFICANT WIND IMPACTS.

257 [WS-5]

The underlying defect in the DEIR's consideration of mitigation measures is the fact that, although on the one hand the DEIR purports to be an EIR covering a "project" composed of the cruise terminal, the

Northeast Wharf Plaza, the AC34 events, and the long term development rights associated with the America's Cup, jointly, in a single EIR, it then attempts to split them out, individually, for consideration of their impacts and mitigation measures.

The DEIR considers the project's wind impacts on the America's Cup event separately from its consideration of these impacts on the Cruise Terminal and Northeast Wharf Plaza, and recommends separate mitigation measures:

Impact WI-1: As to the America's Cup event, the DEIR concludes that the construction and operation of the AC34 facilities and events could alter wind in a manner that substantially affects public areas, but would be less than significant with mitigation, based on the following reasoning:

DEIR, p. 5.10-13:

> "Because it is unknown if hazardous wind conditions would occur during the AC34 2012 or 2013 events, this would be a *potentially significant* impact. However, this wind impact would be mitigated to a less-than-significant level by the implementation of **Mitigation Measure M-WI-1**.
>
> **"Mitigation Measure M-WI-1: Warning Signs and/or Limiting Access on the Eastern Aprons of Piers 27-29 During Hazardous Wind Events.**
>
> The project sponsor[16] shall be required to post warning signs and, if necessary, restrict public access to the eastern aprons of Piers 27-29 during the occurrence of high-speed winds that could result in hazardous wind conditions for spectators, and implement design features that provide wind protection for public access areas.
>
> If average wind speed at pedestrian height exceeds 26 mph, or when the National Weather Service issues high wind warnings for the Bay, the project sponsor shall implement this measure. As experience with the local wind conditions is gained, this trigger should be adjusted to suit the wind conditions that are experienced on the pier."

257 [WS-5] cont.

Impact WI-2: As to the Cruise Terminal and Northeast Wharf Plaza, the DEIR concludes that the construction and operation as proposed could alter wind in a manner that would substantially affect public areas, but would be less than significant with mitigation, as follows:

> "Thus, the project would alter wind in a manner that would substantially affect public areas. Therefore, construction and operation of the Cruise Terminal and Northeast Wharf Plaza would have a *significant* impact on wind. However, the significant wind impact would be mitigated to a less-than-significant level by the implementation of **Mitigation Measure M-WI-2**."

[16] Which project sponsor would be responsible for implementing proposed Mitigation Measures M-WI-1 and M-WI-2? The America's Cup Event Authority or the Port?

Environmental Council Comments
America's Cup DEIR Case No. 2010.0493E
Revised August 29, 2011

> **"Mitigation Measure M-WI-2: Warning Signs, Limiting Access and/or Design Features on the Eastern Aprons of Piers 27-29 During Hazardous Wind Events.**
>
> The project sponsor shall be required to post warning signs and, if necessary, restrict public access to the eastern aprons of Piers 27-29 during the occurrence of high-speed winds that could result in hazardous wind conditions for visitors, and implement design features that provide wind protection for public access areas, consistent with BCDC and Port design guidelines, as well as *Secretary of the Interior's Standards for the Treatment of Historic Properties*. Examples of design features would include combinations of permanent or movable fences and partitions, kiosks, street furniture, substantial planter boxes with shrubs, hedges and trees (such as professionally designed landscape/hardscape commonly used to define and protect outdoor dining and seating areas). [Emphasis added.]
>
> "If average wind speed at pedestrian height exceeds 26 mph, or when the National Weather Service issues high wind warnings for the Bay, the project sponsor shall implement this measure. As experience with the local wind conditions is gained, this trigger should be adjusted to suit the wind conditions that are experienced on the pier."

257 [WS-5] cont.

In the case of wind impacts, even if warning signs and limited access to the AC34 events could be considered adequate mitigation in the short-term for the temporary AC34 events, such a mitigation measure would not adequately mitigate for the proposed project's wind impacts in relation to the proposed future long-term uses of Piers 27-29 for public open spaces and a cruise ship terminal.

The DEIR must consider the impacts of the temporary AC34 event itself on (i.e. requiring physical changes to Piers 27-29 to accommodated the AC 34 Village per the Host Agreement) on the future permanent uses of Piers 27-29 as a cruise terminal and public open space. Because the wind impacts of the proposed project cannot be adequately mitigated at to these future uses (see **COMMENT WI-3B**, below), mitigating them for the short term use of Piers 27-29 for AC34 events is inadequate in inappropriate.

COMMENT WI-3A: The DEIR is inadequate and incomplete in failing to consider design alternatives that could avoid or substantially reduce wind impacts:

The DEIR fails to examine alternative designs for the Pier 29 shed and cruise terminal building that would reduce wind impacts on the proposed Northeast Wharf Plaza and other open space areas Piers 27-29. This would also be consistent with Planning Code Section 148, which requires that buildings be designed to avoid wind speeds that reach or exceed the hazard level.

258 [AL-1, AL-2]

- The DEIR should consider extending the Pier 29 shed to its original length and configuration instead of "truncating" or removing a substantial portion of the shed, which may reduce the wind impacts on Piers 27-29.
- The DEIR should also consider new designs for the cruise terminal that would reduce winds on the site. For example, extending the end of the terminal toward the end of Piers 27-29 and designing its eastern end in a manner more consistent with historic pier sheds located in the Historic District.

The DEIR fails to consider reasonably feasible alternative locations for the America's Cup Village and viewing area that would not impact the future long-term public open space benefits of Pier 27-29. The future public benefit a 3-acre open space at the end of Piers 27-29 is questionable and has never been in any Port or BCDC plans. Consideration of alternative viewing areas could reduce or eliminate the size of the viewing area at the end of Piers 27-29 allowing much more flexibility in the design of the Cruise Terminal and NE Wharf Plaza, thereby eliminating or substantially reducing wind impacts. **258** [AL-1, AL-2] cont.

- As we suggested in our scoping comments and in our comments on the preliminary DEIR, the EIR should consider creating a prime viewing area for AC34 on the triangle parking lot at Fisherman's Wharf. Long a part of Port and BCDC plans for creating public open space, this alternative would not only accommodate the AC34 event, but would further existing plans for the creation of public open space. This alternative would provide a lasting legacy of public open space to be used by thousands of residents and visitors.
- Also suggested in scoping comments is the use of the space behind the Ferry Building as an alternative viewing area for AC34 requiring the elimination of the existing restaurant building, an eyesore that currently blocks views of the Bay from a public space that is currently utilized by thousands of people. This alternative was summarily rejected by the DEIR in spite of its potential for extraordinary long-term public benefits.

COMMENT WI-3B: The DEIR's proposed Mitigation Measure M-WI-2 not only relies on future "design features" that are not a part of the project description, but these features could themselves have a significant impacts on historic resources that would require environmental review:

Not only is proposed Mitigation Measure M-WI-2 absurd on its face, but there is no basis for the DEIR's conclusion that the implementation of future "design features that provide wind protection for public access areas, consistent with BCDC and Port design guidelines, as well as *Secretary of the Interior's Standards for the Treatment of Historic Properties*" would mitigate the significant wind impacts to a less than significant level because these design features do not yet exist. Further, each of the examples of "design features" listed in the mitigation measure could impact the significance of historic resources, which requires its own environmental review of the specific design features, which this EIR does not provide, but should. **259** [WS-6]

Environmental Council Comments
America's Cup DEIR Case No. 2010.0493E
Revised August 29, 2011

At such time as an accurate project description for the proposed project at Piers 27-29 has been made available and a wind-tunnel test has been performed, the DEIR must identify each point on the project site and on surrounding public areas on Pier 31 and along The Embarcadero where the project would alter wind speeds in a manner that substantially affects public areas. In addition, because of the informational deficiency, the DEIR was unable to accurately analyze the suitability of Piers 27-29 for the proposed uses with respect to the wind levels. **259** [WS-6] cont.

COMMENT WI-4: THERE IS NO BASIS FOR THE DEIR'S CONCLUSION THAT THE WIND IMPACTS OF THE LONG-TERM DEVELOPMENT UNDER THE HOST AGREEMENT ARE LESS THAN SIGNIFICANT.

The DEIR states as to all future long-term development impacts, the DEIR concludes that no mitigation is required:

DEIR, p. 5.10-16:

> "Although no site-specific development projects or programs have been developed, this EIR analyzes at a conceptual level an assumed type and level of development based on current land use policies and guidelines. Future development at the Rincon Point and Brannan Street Wharf Open Water Basins, Piers 26, 28, 30-32, 19, 191/2, 23, and 29 and Seawall Lot 330 could include a combination of residential, retail/commercial, office (maritime or general), entertainment and assembly/ commercial, and maritime uses. The only structure with the potential to be higher than 40 feet would be on Seawall Lot 330. At this time, in the absence of specific development proposals, it is assumed that future long term development would be designed and constructed in conformance with applicable design guidelines and policies, which include Section 148 of the San Francisco Planning Code, *BCDC Special Area Plan – Northeastern Waterfront, Port Waterfront Land Use Plan – South Beach/China Basin Waterfront, Bryant Street Mixed Use Opportunity Area*, and the Recreation and Open Space Element of the *San Francisco General Plan*." **260** [WS-7]
>
> "Assuming conformance with the above guidelines and policies, the future long-term development wind impact would be less than significant. Further site-specific and project-specific review of wind impacts will be required when actual development proposals are submitted.
>
> **"Mitigation:** None required"

There is no basis in the DEIR for this conclusion. Without a complete and stable project description for each future development project, neither the agency nor the public can reliably assess the nature and extent of the project's impacts. Further, without a reliable assessment of the nature and extent of the project's impacts, it is impossible to judge whether any alternatives or mitigation measures are likely to be effective in either substantially reducing significant impacts or reducing them to less-than-significant.

11. SECTION 5.11 - RECREATION

CEQA requires that before a decision can be made to approve a project that would pose potential physical effects, an EIR must be prepared that fully describes the environmental effects of the project. Each significant effect on the environment resulting from the project, and ways to mitigate each significant effect, must be addressed. A significant environmental effect means a substantial, or potentially substantial, adverse change in any of the physical conditions within the area affected by the project, including to land, air or water. [Source: EIR 2-1] In determining whether a significant impact will result, one relevant factor is whether the public has access to alternative, similar resources during that period. [Source: EIR 5.11-35]

261 [HY-3, RE-2]

The impact of AC34 on Aquatic Park and its users is severe. As described in this document;

a. The proposed uses identified in the Draft EIR for and around Aquatic Park will directly affect the safety of Club members and the quality of the water in which we swim and row,
b. Many of those proposed uses are not explained in sufficient detail to accurately assess the impacts, and
c. Mitigation measures and alternatives have not been adequately evaluated.

Comment RE-1: The DEIR is inadequate in that the description of the recreational setting fails to adequately describe the long-standing and intensive use of Aquatic Park for swimming and people-powered boating.

One of the DEIR's few references to swimmers is contained in its "Brief History of Aquatic Park." [EIR 5.5-17] It notes that, "At least as early as the 1880's, bathers congregated in the cove to enjoy its warm waters – the result of heated industrial discharge from nearby facilities...." This wholly fails to consider the popularity and intensive use of Aquatic Park that continues today. A description of this recreational use must be included in the document; a brief description is included below.

262 [RE-6]

Historical uses of Aquatic Park by swimming and boating clubs

The South End Rowing Club and Dolphin Clubs are located at 500 and 502 Jefferson Street, at the southeast portion of Aquatic Park. Our Clubs are among the oldest institutions in San Francisco, having operated continuously since 1873 and 1877 respectively, and have resided in Aquatic Park since the early 1900s. The Clubs played active roles in the formation of Aquatic Park, and represent an era when rowing represented the primary recreational activity on San Francisco Bay.

Currently, the Clubs have approximately 2,000 members, ranging in age from 18 to over 95. As non-profit organizations and tenants of the City and County of San Francisco's Department of Rec and Park, the Clubs we open their facilities to the public for daily use six days a week. Full-time

Environmental Council Comments
America's Cup DEIR Case No. 2010.0493E
Revised August 29, 2011

membership costs less than $1/day.

The Clubs further Rec and Park's mission by providing recreational access to the Bay. Primary activities include swimming and rowing, as well as handball and running. The Clubs sponsor some of the most noted aquatic events in the Bay, including the Alcatraz Invitational, the New Year's Day Alcatraz Swim, Escape from Alcatraz Triathlon and several rowing regattas.

For over 120 years, the Dolphin and South End Rowing Clubs have provided access to the San Francisco Bay that is unique and unavailable through any other venue. The clubs provide boathouses and launching facilities for rowers, kayakers and canoers including providing historic wooden craft for our member's enjoyment of the Bay. In addition, the two clubs in total provide swimming facilities for hundreds of swimmers including scores of world-class open water swimmers who compete locally and internationally.

262 [RE-6] cont.

Late summer and early fall are the warm water months for Aquatic Park. Swimmers, particularly children, the elderly, and novice swimmers, are most likely to use Aquatic Park during those months.

Comment RE-2: The DEIR fails to properly analyze the impacts of temporary platforms and berthing in Aquatic Park

The DEIR proposes "...a large video screen set on a floating platform [in the lagoon] for viewing the AC34 races from the beach and park seating area." The proposed 140 foot barge is the equivalent of a 12 story building laid on its side is to hold a 44 foot wide by 22 foot high LED screen. This laden barge is to be set in the shallow shore area of the lagoon that has been continuously used as a protected swimming area for over 130 years as well as a launching and recovery area for vintage wooden rowing craft, kayaks and other non-motorized vessels. In addition, at least six large racing vessels of undefined dimensions (presumably in the range of at least 45 to 72 feet) are proposed to be moored in Aquatic Park for exhibition without any details as to what these uses would entail.

263 [HY-3, RE-2]

The DEIR further describes the "Installation of Temporary Berthing Facilities for AC34 Race/Support Boats and/or Private Spectator Boats." [EIR 3-27, Table 3-1] It is unknown what the nature, permanence, and level of intrusiveness of these "anchoring systems" might be. The DEIR refers to "125 cubic feet" concrete cubes, some of which would have to be "connected together" to provide "the resistance as required for larger vessels" (those over 70 feet in length). The DEIR fails to provide any further details, and entirely fails to assess the potential negative impact on the longstanding recreational uses of Aquatic Park. The average depth of Aquatic Park ranges from a mere seven to 14 feet. http://www.charts.noaa.gov/OnLineViewer/18649.shtml

The DEIR fails to analyze whether it is possible under any circumstances to install such "temporary

berthing facilities" and still safely permit the existing swimming (let alone public wading) activities throughout the cove, given its shallow nature. Note that while a buoy line along the shoreline is formally designated on some maps as the "swim line," in fact (a) during low tide it is possible to stand (as opposed to swim) at the buoys; and (b) in any case swimming takes place on a daily basis over every square foot of the Aquatic Park cove.

The DEIR further fails to explain exactly how "temporary" these berthing facilities will be. Will they be removed between events, or merely between racing seasons? Further, the EIR fails to analyze the potential impact on water quality – particularly as it relates to human swimmers -- of repeatedly installing and removing these "temporary" facilities.

Notwithstanding the lack of detail provided by the DEIR, it is clear that these plans would significantly impede the current recreational use of Aquatic Park. It is also clear that these plans, though only vaguely described, raise potentially serious safety issues for the users of Aquatic Park. Finally, it is clear that these proposed facilities will create substantial physical adverse effects on Aquatic Park. Neither these recreational impediments, nor these safety issues, nor these significant adverse physical effects are addressed in any way whatsoever by the DEIR.

263
[HY-3, RE-2]
cont.

It is also unknown what the planned number or size of these boats might be. Note that according to the EIR, large spectator vessels are "over 150 feet in length). [Source: 3-31] The current maximum number of boats permitted in Aquatic Park is 24. Are we really to understand that up to 24 150-foot boats are to be permitted in Aquatic Park at one time? To understand the potential impact that the installation and berthing of these various boats would have on Aquatic Park, it is necessary, at a minimum, to establish: (a) the maximum number of boats; (b) the maximum size of these boats; (c) the planned functions of these boats, including whether to be moored or continuously moving about; and (d) the potential impact on water quality – as relevant specifically to human swimmers; and (e) the plan for enforcement of limits and other requirements (including prohibitions on emissions) on all boat traffic into, within, and exiting Aquatic Park. Again, these plans, though only vaguely described, raise potentially serious issues – both as to impediment of use and safety -- for the users of Aquatic Park. Neither these potential recreational impediments nor the potential safety issues are addressed in any way whatsoever by the DEIR.

Note that Figure 3-23 of the DEIR presents a diagram of the Proposed Aquatic Park Venue Plan. However, it does not appear that aspects of this diagram are to scale. It is remiss and an omission for the boats, barge and other proposed structures in Aquatic Park to not be presented to scale. Further, although this diagram shows only three boats, other sections of the DEIR present the impression that more than three boats would be permitted in Aquatic Park. Again, it is remiss and an omission for the proposed number of boats to not be accurately presented in this diagram.

The DEIR projects approximately 12-17 days of racing in the one or two ACWS events to be held in San Francisco, and 45-50 racing days in the series planned for 2014. (These events may be repeated in the future, to an unknown extent.) [EIR 3-27, ft. a] Based on completely inadequate substantiation, the DEIR somehow extrapolates this level of activity into supposed "insignificant" impact on current activities in Aquatic Park. This assertion fails on several levels:

- Over three years, this level of activity averages out to 23-28 racing days per year. Monopoly of Aquatic Park for almost a month every year does not constitute "insignificant" impact.
- The DEIR fails to explain how the many allegedly "temporary" facilities (e.g., "temporary berthing facilities") will realistically be removed at the end of every racing period.
- The EIR fails to note that this average 23-28-day period per year will, due to the seasonal changes in water temperatures, consistently occur during the peak usage times of Aquatic Park by swimmers.

263
[HY-3, RE-2]
cont.

Swimmers and other recreational users would be pushed out of Aquatic Park not be because of mere inconvenience due to crowds and so forth. Rather, as described – but not adequately addressed -- in the draft EIR, they would be pushed out of Aquatic Park because of specific safety hazards in the form of hazardous underground obstacles in the water, surface physical impediments above water, and decreased water quality. This document must recognize this as an impact and provide appropriate mitigation, for instance by placing an upper limit on what can be placed in Aquatic Park and requiring that obstacles in and on the water be removed by a time certain between events.

Comment RE-3: The DEIR fails to recognize significant impacts to recreation and public safety in Aquatic Park and in Bay

The draft EIR fails entirely to address the impacts upon the thousands of individuals who participate in open water swimming and rowing events in Aquatic Park and the wider Bay during the months of proposed racing and course closures. These include Alcatraz and Gate crossings, as well as Bridge to Bridge swims and points in between.

264
[RE-5, RE-6]

The draft EIR fails to recognize the extensive, well-established, and longstanding group swim activity in the Central San Francisco Bay. Under "Existing Water Uses in Central San Francisco Bay" (section 5.2.1.2), **the draft EIR fails to provide a comprehensive list, as required, of such current activities**. Despite the fact that dozens, if not hundreds, of group swim activities occur in the Central Bay each year, this section contains no reference to this activity whatsoever.

The draft EIR states, "During each race, and for a period before and after, restrictions on maritime traffic and airspace would be required." [Source: 3-28] **Again, the draft EIR, while obviously anticipating similar restrictions on swimming activities in the Bay as a whole, omits any reference to restrictions**

on swimmer traffic. Further, the draft EIR is deficient in that it fails to specify what "period of time before and after" each race would carry such restrictions. It is safe to say that -- while swim activities within Aquatic Park begin before sunrise and continue until after sundown – swim activities in the rest of the Bay generally occur in the early morning and conclude by mid-morning. Further, according to the draft EIR, it appears that on-the-water AC34-related activities are generally scheduled to start at 11 am. [source: 3-32] However, the draft EIR fails to specify that -- so as to mitigate impact to the extent possible -- the ongoing swim activities outside Aquatic Park will be permitted to occur as usual until at least mid-morning of each day.

The draft EIR further fails to note that the organizers of these group swim activities have over the years formed an excellent and cooperative working relationship with the Coast Guard Vessel Traffic Service. As a consequence, the draft EIR fails entirely to address the potential impact on this relationship, and **what, if any impact, this project will have on the current protocol for scheduling and administering these swims.** 264 [RE-5, RE-6] cont.

Note that the draft EIR's outline of the Water and Air Traffic Plan also neglects to address the potential impact on swim events outside Aquatic Park, and how these will be addressed. (EIR 3-88]

The draft EIR recognizes that "It is likely that on peak use days, some recreationalists who currently use...Aquatic Park for...access to shoreline areas for swimming, fishing, kayaking, and surfing would not want to use these areas due to the size of crowds, spectator support facilities, and nearshore spectator boats present for America's Cup events." Nevertheless, the sole impact acknowledged is that "some recreationists may instead use other similar regional recreational ...shoreline areas...such as Baker Beach and Ocean Beach...and the impact would be less than significant." [page 5.11-41]

Comment RE-4: The DEIR is further inadequate in that it cavalierly proposes supposedly similar resources, which are in fact dangerous and life-threatening, as an alternative to Aquatic Park.

The draft EIR claims that the lead agency is entitled avoid a finding of "significant recreational impact under CEQA" despite "short-term disruption of access" to existing recreational resources "if the public has access to alternative, similar resources during that period." [page 5.11-35]. Given the finding of less than significant impact, the draft EIR offers no mitigation and fails to offer the alternative of not proceeding with the proposed use. 265 [RE-2]

Second, the primary alternative water resource proposed by the draft EIR is Ocean Beach. [EIR 5.11-41] In fact, Ocean Beach has been cited as "**the** most hazardous and dangerous piece of shoreline associated with an urban environment in the whole United States."

COM-158

O-ACEC

Environmental Council Comments
America's Cup DEIR Case No. 2010.0493E
Revised August 29, 2011

http://www.universityofcalifornia.edu/news/article/4381 Based on this recklessly proposed alternative the EIR precipitously concludes that the impact of this project on Aquatic Park would be "less than significant." [EIR 5.11-41]

Aquatic Park is the **only** protected water-contact recreational use area inside the Gate. It is not safe to swim at Ocean Beach or Baker Beach on a daily basis as hundreds of people regularly do in Aquatic Park. The same is true as to kayakers and stand-up surfboarders. Finally, there is no other safe or similar area to launch the vintage row boats that come and go from Aquatic Park on a daily basis. Accordingly, **there are no similar resources** and the finding of "less than significant impact" is without basis and contrary to CEQA. 265 [RE-2] cont.

Comment RE-5: The DEIR is inadequate in that it neglects entirely to identify, as required, potential mitigation measures -- even where those impacts will clearly be significant, and where there is clearly no alternative, similar resource available.

Because the document consistently finds impacts less than significant, it proposes no mitigation to the extreme impact to recreational uses in Aquatic Park. At minimum, the document should propose minimizing the number and size of temporary structures in the water; should require that all temporary structures be removed by a time certain after both the 2012 and 2013 events; and develop a schedule that allows swimmers to use the Bay on a daily basis without disrupting the race schedule. The project sponsors must work with the affected groups to develop appropriate mitigation for the Final EIR. 266 [RE-2]

12. SECTION 5.12 – UTILITIES AND SERVICE SYSTEMS

COMMENT UT-1: DEIR DOES NOT FULLY ADDRESS THE POTENTIAL FOR EXACERBATING ON-GOING DISCHARGES FROM THE PORT OF SAN FRANCISCO'S DRINKING WATER AND SEWER SYSTEM

In their response to the Proposed Project's Application for 401 Water Quality Certification the RWQCB cited a failure to identify whether the addition of drinking water and sewer utilities at the America's Cup venues, particularly the team bases at Pier 80 and Piers 30-32, could exacerbate the existing capacity of surrounding infrastructure (Attachment 4, *RWQCB Incomplete Application AC34 401 Cert.*).[17] Given the poor condition of drinking water and sewer infrastructure throughout the San Francisco waterfront, real concern lies in whether peak loads expected during race days could result in discharge of chlorinated water and sewage into San Francisco Bay.

In February 2010 the Port of San Francisco received a notice of violation from the RWQCB for the discharge of chlorinated potable water directly to San Francisco Bay from Pier 15.[18] As a result, the Port prepared an evaluation report, following inspection of 42 piers, which included a score for each Pier, ranging from 1 to 5, with 5 indicating serious damage and wear. As detailed in the DEIR, the report indicated that under-pier infrastructure at all the piers where AC34 activities would occur received a score of 4 or 5, indicating serious corrosion or damage, with an estimated service life of 0 to 10 years. The DEIR does not suggest that rehabilitation of this infrastructure will take place in the near future, indicating on-going discharges of sewage and potable water is likely under existing conditions and that increased demand during AC34 events would exacerbate this situation further. **267** [HY-13]

We echo the concerns of the RWQCB (See attachment 5). The condition of existing drinking water and sewage infrastructure must be accurately characterized to determine whether capacity exists for increased loads associated with the Proposed Project. As noted by the RWQCB, any discharges of chlorinated potable water or sewage would violate state water quality standards and represent an unmitigated significant impact. To mitigate the potential for unregulated discharges, piers utilized for the Proposed Project must be adequately rehabilitated to satisfy forecasted needs.

[17] Letter from Shin-Roei Lee, Watershed Division Chief of the California Regional Water Quality Control Board San Francisco Bay Region, to the Port of San Francisco. July 22, 2011. Re: *Incomplete Application for Water Quality Certification for the 34th America's Cup Races and James R. Herman Cruise Terminal Project, San Francisco County.*
[18] See page 5.16-73 of the AC34 DEIR.

COM-159

Environmental Council Comments
America's Cup DEIR Case No. 2010.0493E
Revised August 29, 2011

COMMENT UT-2: DEIR IS DEFICIENT BECAUSE IT FAILS TO FULLY DESCRIBE ENVIRONMENTAL EFFECTS ON SECONDARY VIEWING LOCATIONS AND INAPPROPRIATELY RELEGATES MITIGATION MEASURES TO A LARGELY VOLUNTARY WASTE MANAGEMENT PLAN

This section fails to provide any details about how nearby upland neighborhoods (including all of Telegraph Hill, the northern, eastern and western slopes of Russian Hill, the northern slopes of Pacific Heights, and those neighborhoods that connect the waterfront to these secondary viewing areas) will be impacted by the Events' failure to provide temporary sanitation facilities The Utilities and Service Systems Plans will be informed by the Waste Management Plan and the Sustainability Plan, neither of which are attached or included in the DEIR.

From Page 5.2-27 *"The installation of temporary facilities, such as portable wash stations, toilets and solid waste receptacles will be determined through sponsor coordination with the manager of the secondary viewing locations. "*

Page 5.1.7 states that "none of the secondary viewing areas would have the programmed amenities, event information or hospitality attractions ..." and goes on to estimate "the large majority of spectators would be expected to be at the primary venues rather than the secondary viewing areas....based largely on the fact that the primary venues would offer a unique and appealing programmed experience for spectators...". **268** [UT-3]

The DEIR must identify what they mean by "large majority" and also indicate where the remaining spectators are likely to congregate, in order to determine the impact on areas outside the primary venues. The DEIR fails to address the numbers of people who **do and will** visit the secondary viewing areas, which are almost exclusively, quiet residential areas. These residential neighborhoods, many of which are promoted by the City as "must see" tourist areas (see citations in comment TR-9), are almost completely without visitor amenities and are impacted heavily by summer crowds. These neighborhoods, by reason of being residential, also have a conspicuous lack of public sanitation or trash facilities to accommodate all the tourists which results in observed cases of public urination in landscaping and public parks and green spaces as well as inappropriate disposal of food containers and other waste.

To mitigate this impact, the final Waste Management Plan must identify high-traffic sites in the identified upland neighborhoods and locate sanitation facilities. At a minimum, this would include already high-volume locations near Coit Tower, Lombard Street, and along the Powell and Hyde Street cable car lines.

COMMENT UT-3: THE DEIR IS DEFICIENT IN ESTIMATING LITTER GENERATION FROM THE EVENT, ITS IMPACT ON THE BAY, AND HOW LITTER WILL BE MANAGED.

Plans for minimizing litter generation and addressing trash that is produced by the event are relegated to an incomplete and ineffective Waste Management Plan. The DEIR must identify specific control measures that are required for inclusion in the Waste Management Plan, including:

- Coordination between sanitation coordinator, traffic management consultants and SFPD to identify casual public viewing venues and ensure appropriate placement of temporary restroom facilities and trash containers;
- Frequent maintenance of temporary restrooms to ensure that hazardous waste is properly dealt with and quick removal occurs following each race event;
- Sufficient and clearly labeled containers for recyclables and compostables;
- Frequent trash pickups to keep trash bins functional and reduce litter generation;
- A requirement that vendors operating at or near the waterfront use only compostable, reusable or recyclable materials; and,
- Adequate supervision to ensure that spectators understand and comply with San Francisco's 3-bin program.

269 [UT-3]

COMMENT UT-4: DEIR INCORRECTLY STATES THAT WATER SUPPLY IS AVAILABLE FOR LONG-TERM PROJECT, AND FAILS TO COMPLY WITH STATE LAW REQUIRING A WATER SUPPLY ASSESSMENT FOR A PROJECT OF THIS SIZE (PAGE 5.12-3)

Senate Bill 610 (Chapter 643, Statutes of 2001) and Senate Bill 221 (Chapter 642, Statutes of 2001) were signed into law, effective January 1, 2002. These bills require that local governments ensure that long-term water supply is available for large developments prior to approval. Pursuant to CEQA, local government must request a water supply assessment from the local water provider if a project exceeds a certain size. A project subject to this requirement is defined as any one of the following:

1. A proposed residential development of more than 500 dwelling units.

270 [UT-5]

COM-160

O-ACEC

Environmental Council Comments
America's Cup DEIR Case No. 2010.0493E
Revised August 29, 2011

2. A proposed shopping center or business establishment employing more than 1,000 persons or having more than 500,000 square feet of floor space.
3. A proposed commercial office building employing more than 1,000 persons or having more than 250,000 square feet of floor space.
4. A proposed hotel or motel, or both, having more than 500 rooms.
5. A proposed industrial, manufacturing, or processing plant, or industrial park planned to house more than 1,000 persons, occupying more than 40 acres of land, or having more than 650,000 square feet of floor area.
6. A mixed-use project that includes one or more of the projects specified in this subdivision.
7. A project that would demand an amount of water equivalent to, or greater than, the amount of water required by a 500 dwelling unit project[19].

According to the DEIR, the long-term development project would generate a water demand of 154,600 gallons per day, and the table on Page 3-91 indicates the square footage of the project at 1.354 million square feet. Using criteria #7, we can use available census data[20] showing the average household size in San Francisco as 2.26, and information from the San Francisco Public Utilities Commission (SFPUC)[21] estimating average daily residential per capita consumption at 50 gallons to determine that the daily water demand for a 500 dwelling unit project is 56,500 gallons. This project clearly far exceeds the threshold for which a water supply assessment is required.[22] It is not enough to say that this project fits within ABAG employment and growth figures. To avoid a water supply assessment, the Planning Department must show that information on this specific project at this size was provided to the SFPUC either for inclusion in a prior water supply assessment or in the current Urban Water Management Plan. Unless such communication was made, the assumption cannot be made that this development is incorporated into SFPUC's water supply planning.

270 [UT-5] cont.

[19] California Water Code, Division 6, Part 2.10 "Water Supply Planning to support Existing and Planned Future Uses" Section 10912
[20] U.S. Census Bureau Fact-Finder, average household size, San Francisco County, 2010 Census Summary File 1
[21] 2010 Urban Water Management Plan, for the City and County of San Francisco, Prepared by the San Francisco Public Utilities Commission, June 30, 2011 http://www.sfwater.org/index.aspx?page=75
[22] Guidebook for Implementation of Senate Bill 610 and Senate Bill 221 of 2001, Prepared by the California Department of Water Resources, October 2003, http://www.water.ca.gov/pubs/use/sb_610_sb_221_guidebook/guidebook.pdf

Further, it is unclear at this time whether long-term water supplies can be confirmed for this project. While water demand in San Francisco and its wholesale is currently low, the SFPUC is projecting a shortfall of between 10 and 19.7 million gallons per day in the service area by 2035(See attachment 6). In order to approve a water supply assessment for the project, the SFPUC would need to ensure a new source of supply or require that the development fully offset its water use. 270 [UT-5] cont.

COMMENT UT-5: THE DEIR IMPROPERLY ASSUMES THAT SHORT-TERM EVENTS WILL HAVE AN IMPACT EQUIVALENT TO AC34.

On page 5.12-19, the DEIR states "These secondary viewing areas have shown their ability to accommodate large crowds with proper event planning. The annual Treasure Island Music Festival, held each autumn, has an attendance of about 25,000 visitors over 2 days. The City of Sausalito hosts the annual Sausalito Art Festival, which had an attendance of 34,000 people over a 3-day period in 2010. Also, the Tiburon Wine Festival and Tiburon Art Festival annually attract crowds of visitors to the downtown and waterfront areas. The America's Cup five average peak race days would generate comparable, or fewer, visitors to these areas, as described in Chapter 3, Project Description." Please correct this language to indicate that the events described are short-term in nature compared with AC34 activities. 271 [UT-3]

COMMENT UT-6: MITIGATION MEASURE RE-1 IS NOT SUFFICIENT TO ENSURE PROPER PLACEMENT OR SUPPLY OF SANITATION FACILITIES.

This mitigation measure is dependent up on the *Parks Event Operations Plan*, which is not yet available for public review. To ensure that the *Plan* provides adequate mitigation, the DEIR must specify minimum requirements. Furthermore, the *Plan* only covers National Park Service, Presidio Trust, California Department of Parks and Recreation, and the San Francisco Recreation and Parks Department. The DEIR must provide mitigation for areas other than these parks, including Port property and property of the City and County of San Francisco. 272 [UT-3]

COMMENT UT-7: DEIR INACCURATELY DESCRIBES THE IMPACT OF LONG-TERM DEVELOPMENT ON WASTEWATER SYSTEM

As found on page 5.12-30, the DEIR relies on a series of incorrect assumptions to assess potential impacts of the City of San Francisco's wastewater system: 273 [UT-5]

> *Preliminary calculations find that the development of the piers and seawall lot subject to the Host Agreement would result in additional wastewater generation of about 132,600 gpd total. However, redevelopment of these sites would reduce*

> *total impervious surfaces, which would reduce stormwater flows. .. Moreover, the SFPUC is in the process of implementing a Sewer System Improvement Program that anticipates long-term development within San Francisco pursuant to existing land use controls, including some of the potential development under the long-term leases. Therefore, assuming that long-term development of the subject piers and seawall lots would be in compliance with these land use controls, the impacts on wastewater and stormwater systems would be less than significant.*

This statement makes a series of incorrect assumptions. First that an additional 132,600gpd day of wastewater is not a significant impact; second that stormwater flows would be reduced; and finally that the SFPUC's Sewer System Improvement Program would somehow mitigate the impact of this project.

First, while the document correctly states that the City's sewer system has dry weather capacity, the increased wastewater from the long-term development would impact the system during wet weather, contributing to longer and potentially more frequent combined system overflows. The DEIR, in its description of these overflow events (page 5.12-4) neglects to identify the problems associated with overflows, including high bacteria counts and deposition of heavy metals, PCBs and other chemicals in the Bay sediment. This must be considered a significant impact that can be mitigated only by reducing the overall contribution to the system. 273 [UT-5] cont.

Second, the document must be clear that the vast majority of the long-term development site would be located on piers, which do not send stormwater to the sewage system. Only Seawall Lot 330 currently sends stormwater to the City's sewer system, and the development currently permitted on this site was not required to comply with the current stormwater control ordinance. The DEIR must require that the Seawall development comply with the current stormwater ordinance, and must indicate how much stormwater would be diverted from the sewer system through compliance.

Finally, the City's Sewer System Improvement Program exists in draft form only; it has not yet gone through CEQA. That draft[23] does not include a reduction in CSOs as one of its goals or projects. Therefore, the assumption that this program will reduce the impact of this project to less than significance is unfounded.

[23] Sewer System Improvement Program Review; DRAFT Report for SFPUC Commission Review, July 27, 2010 http://ww.sfwater.org/index.aspx?page=117

13. SECTION 5.14 - TERRESTRIAL BIOLOGICAL RESOURCES

COMMENT TBR 1: THE EIR MUST ADEQUATELY ADDRESS ACCOUNTABILITY FOR ENSURING THAT MITIGATION MEASURES ARE CARRIED OUT EFFECTIVELY, AND FUNDING SOURCES FOR MATERIALS AND STAFFING SHOULD BE IDENTIFIED.

From the information provided, it is not possible to know in advance whether proposed mitigations, such as signage, would be effective until actually tried.

A monitoring system needs to be employed so any areas where fencing, signage, etc. are not effective in avoiding impacts will receive adequate attention. Ongoing monitoring could be focused on those events and locations deemed likely to draw the largest crowds, as that is when mitigation measures by signage and fencing alone are most likely to fail.

- Please provide citations of instances where signage alone, and signage and fencing were adequate in protecting habitat areas from large crowds.
- Please describe what monitoring of the effectiveness of mitigation measures will take place. Please include what strategies would be employed should signing and fencing prove inadequate in a given area.
- Please explain the source of funds for each mitigation measure, and the mechanism for compensating for any harm done should the mitigation measure not be effective. The mitigations should include a requirement that the sponsor post a performance bond to cover the cost of repairing any unforeseen harm.

274 [BIU-4, GEN-2]

COMMENT TBR 2: THE DEIR DOPES NO ADEQUATELY ANALYZE POTENTIAL IMPACTS TO NPS, PRESIDIO AND STATE PARK LANDS IF FUNDING IS TO WITHHELD FROM REGULAR RESOURCE MANAGEMENT FUNCTIONS IN ORDER TO PAY FOR AC34 MITIGATIONS, EVEN IF FULL REIMBURSEMENT IS TO BE MADE AT SOME POINT IN THE FUTURE. THE ASSESSMENT OF IMPACTS SHOULD INCLUDE ANY POTENTIAL DETERIORATION OF NATURAL RESOURCES AND LOSS OF PUBLIC ENJOYMENT WITHIN THE PROJECT AREA AS WELL AS ANYWHERE WITHIN THE AFFECTED AGENCIES' JURISDICTIONS THAT WOULD BE NECESSITATED BY A DIVERSION OF FUNDS TO AC34-RELATED EXPENSES.

275 [GEN-2]

Such impacts could be mitigated by requiring sufficient upfront funding to these federal and agencies to allow the implementation of the listed mitigation measures as well as to carry out any adaptive management activities that may become necessary but cannot be predicted at this time.

Please describe impacts to sensitive areas, as well as sensitive species outside of those areas, from the

Environmental Council Comments
America's Cup DEIR Case No. 2010.0493E
Revised August 29, 2011

activities of dogs, both on and off leash. At a minimum, event publicity should strongly discourage bringing dogs (except for service dogs) to any America's Cup events.

275 [GEN-2] cont.

San Francisco Bay Plan, Pages 4-10-12

COMMENT TBR 3: PLEASE JUSTIFY THE CONCLUSION THAT SPECTATORS WILL NOT CONGREGATE AT INSPIRATION POINT IN THE PRESIDIO. PLEASE DESCRIBE PAST EVENTS SUCH AS FLEET WEEK AND THE USE OF INSPIRATION POINT AT SUCH TIMES. PLEASE SEE FIGURE 4-1, SAN FRANCISCO BAY PLAN, ON PAGE 4-11 OF THE DEIR, WHICH IDENTIFIES INSPIRATION POINT AS ONE OF THE VISTA POINTS INDICATED.

276 [IO-3a]

Section 5.1.3.1 AC34 Event and Cruise Terminal Impacts, Approach to Event Impact Analysis, Page 5.1-7, first full paragraph (and elsewhere)

COMMENT TBR 4: THE DEIR IS INADEQUATE THROUGHOUT IN ASSESSING POTENTIAL IMPACTS TO ANGEL ISLAND. STATE PARK PERSONNEL STATED AT AN INTERAGENCY MEETING ON MARCH 24, 2011 THAT IT IS HIGHLY LIKELY THAT PEOPLE IN SMALL SPECTATOR BOATS WILL SEEK TO GET BETTER VIEWS BY CLIMBING THE ISLAND'S SLOPES. THERE ARE MANY POTENTIAL ACCESS POINTS FOR SUCH CRAFT, AND THE ISLAND IS NOT LISTED AS ONE WHERE THERE WILL BE A BUFFER ZONE FOR SPECTATOR CRAFT.

277 [IO-3a, BIU-4]

Recreational Resources in Vicinity of America's Cup Secondary Viewing Areas, Pages 5.11-26-27

COMMENT TBR 5: THE DEIR INACCURATELY DESCRIBES THE BEACH AND PICNIC GROUND ON YBI AS A POTENTIAL VIEWING AREA. THESE SITES ARE EAST-FACING AND WOULD NOT PROVIDE A VIEW OF THE RACE COURSE. PLEASE ADDRESS THE USE OF THESE SITES AS A GATHERING OR "STAGING" AREAS FOR SPECTATORS WISHING TO ACCESS THE VERY SENSITIVE WEST SLOPE OF THE ISLAND. PLEASE PROVIDE AN ANALYSIS OF POTENTIAL IMPACTS TO THE WETLAND AND DUNE VEGETATIVE COMMUNITIES AT THE BEACH AREA, WHERE SPECTATORS MAY WISH TO CONGREGATE BETWEEN RACE EVENTS. PLEASE INCLUDE AN ANALYSIS OF HOW THE AREAS THAT SHOULD BE OFF-LIMITS TO SPECTATORS ON THE WEST SIDE WILL BE ADEQUATELY PROTECTED IF THIS USE IS ALLOWED.

278 [BIU-4, RE-6]

Upland Biological Resources, Pages 5.14-1 – 5.14-48

5.14.1 Setting – Upland Resources

5.14.1.1 Regional Setting, Page 5.14-1-2

COMMENT TBR 6: PLEASE INCLUDE IN THIS SECTION INFORMATION ABOUT THE PROJECT'S LOCATION ON THE PACIFIC FLYWAY. PLEASE INCLUDE INFORMATION ON THE STATUS OF THE REGION AS A GLOBAL BIODIVERSITY HOTSPOT RECOGNIZED BY THE UNITED NATIONS AS PART OF THE GOLDEN GATE BIOSPHERE RESERVE. PLEASE ALSO NOTE THAT THE BAY-DELTA ESTUARY IS ABOUT TO BE NOMINATED AS A RAMSAR (WETLANDS

279 [BIU-4]

OF INTERNATIONAL IMPORTANCE) SITE BY AUDUBON CALIFORNIA. PLEASE NOTE THAT OVER A MILLION SHOREBIRDS HAVE BEEN COUNTED IN ONE DAY ON SAN FRANCISCO BAY (SEE http://www.sfbayjv.org/strategy.php) 279 [BIU-4] cont.

5.14.1.2 Project Area SettingPages 5.14-2-6

COMMENT TBR 7: PLEASE ADD THAT THAT BLACK-CROWNED NIGHT HERONS ROOST IN THE SYCAMORE TREES BETWEEN AT&T PARK AND THE MARINA. 280 [BIU-2]

Alcatraz Island

COMMENT TBR 8: PLEASE ADD PEREGRINE FALCON (SEE HTTP://WWW.YOUTUBE.COM/WATCH?V=OP6WIV7-IHE AND HTTP://MAGANRORD.BLOGSPOT.COM/2010/10/RETURNING-FALCONS-CONFOUND-AND-EXCITE.HTML), PIGEON GUILLEMOT AND BLACK OYSTERCATCHER (SEE HTTP://WWW.PRBO.ORG/CMS/311) TO THE LIST OF BREEDING BIRDS. 281 [BIU-2]

Fort Baker, Marin County

COMMENT TBR 9: THE EIR SHOULD NOTE THAT THIS IS THE RELEASE SITE FOR INJURED BIRDS FROM IBRRC. PLEASE ASSESS THE POTENTIAL IMPACT TO THESE RELEASES. PLEASE DESCRIBE ANY ACTIVITIES THAT MAY IMPACT THE MANY SPECIES OF BIRDS THAT DEPEND ON THIS HABITAT WITHIN THE MARINA IN THE WINTER. 282 [BIU-1]

Aquatic Park

COMMENT TBR 10: PLEASE NOTE THAT BROWN CREEPER AND PYGMY NUTHATCHES AND OTHER BIRD SPECIES NEST IN THE TREES IN THIS AREA, AS DETERMINED BY BIRD WALKS LED BY NATIONAL PARK SERVICE RANGER CAROL KISER (SEE GOLDEN GATE AUDUBON GULL NEWSLETTERS, NEXT FIELD TRIPS SCHEDULED SEPTEMBER AND OCTOBER, 2011). . 283 [BIU-2]

Crissy Field

COMMENT TBR 11: PLEASE CHANGE SAN-SPURREY TO SAND SPURRY. 284 [BIU-2]

COMMENT TBR 12: PLEASE LIST ALL BIRD SPECIES THAT MAKE USE OF THIS AREA. A GOOD RESOURCE FOR THIS IS GGAS WESTERN SNOWY PLOVER MONITORING REPORTS: http://www.goldengateaudubon.org/conservation/western-snowy-plover/western-snowy-plovers-in-san-francisco/ 285 [BIU-2]

Marina Green, Fort Mason, Aquatic Park

Environmental Council Comments
America's Cup DEIR Case No. 2010.0493E
Revised August 29, 2011

COMMENT TBR 13: PLEASE CORRECT THE DESCRIPTION OF MARINA GREEN, FORT MASON AND AQUATIC PARK TO INCLUDE THE VARIETY OF SHOREBIRDS AND WATERFOWL, INCLUDING GREEN HERON, BROWN PELICAN, SNOWY EGRET, SCAUP SPP., CORMORANT SPP., AND COMMON LOON. 286 [BIU-2]

GGNRA, Southern Marin County

COMMENT TBR 14: P 5.14- 5 GGNRA PLEASE NOTE THAT THE MISSION BLUE BUTTERFLY HABITAT IS MORE THAN "POTENTIALLY OCCUPIED", BUT INDEED "OCCUPIED. SEE www.nps.gov/goga/species.htm 287 [BIU-2]

Angel Island

COMMENT TBR 15: PLEASE NOTE THAT EROSION FROM HEAVY VISITATION IS A CONCERN AND A POTENTIAL IMPACT TO PLANNED RESTORATION EFFORTS. 288 [BIU-4]

TABLE 5.14-1 SPECIAL-STATUS UPLAND SPECIES CONSIDERED IN EVALUATION OF THE PROJECT AREA, Pages 5.14-8-11

Listing # 7:
American peregrine falcon
Falco peregrinus anatum

COMMENT TBR 16: PLEASE CORRECT THE "POTENTIAL FOR SPECIES OCCURRENCE" TO NOTE THAT THE PEREGRINE FALCON HAS BRED SUCCESSFULLY ON THE PG&E HEADQUARTERS BUILDING SINCE 2005 IN DOWNTOWN SAN FRANCISCO AND DOES FORAGE IN THE AREA. SEE: http://www2.ucsc.edu/scpbrg/nestcamSF.htm 289 [BIU-2]

COMMENT TBR 17: Please add to the list of State or Federally Listed Species the California Clapper Rail, now known to nest at Heron's Head Park (Pier 98). 290 [BIU-2]

Other Special-Status Animal Species, page 5.14-10

Listing # 13:
Franciscan manzanita
Arctostaphylos franciscana
Present. Recently re-discovered near the project area.

COMMENT TBR 18: PLEASE ANALYZE THE POTENTIAL EFFECT OF CROWDS TO THIS SINGLE SPECIMEN OF A SPECIES HAS BEEN RELOCATED TO A SITE VERY NEAR TO INSPIRATION POINT. SEE COMMENT TBR 27. 291 [BIU-4]

Environmental Council Comments
America's Cup DEIR Case No. 2010.0493E
Revised August 29, 2011

Caspian tern (Sterna caspia)

COMMENT TBR 19: Please correct to note that Caspian terns breed at Pier 64. **291** [BIU-4] cont.

Migratory Bird Treaty Act, page 5.14-18

COMMENT TBR 20: Please add to the list of "Marine birds that are covered by provisions of the Migratory Bird Treaty Act". Pigeon Guillemot, Caspian Tern, Snowy Egret, Black Crowned Night Heron, Cliff Swallow, Bank Swallow, and Black Oystercatcher. **292** [BIU-2]

Impact Overview, pages 5.14-26-27

COMMENT TBR 21: The DEIR presents a misleading picture of Alcatraz visitation which could lead to an inaccurate baseline. Please note that while the visitation numbers may be accurate, Alcatraz has National Park Service Rangers, staff and volunteers to work with the visitors and prevent negative impacts to wildlife. Please note this factor, as the staffing level needs to be considered in trying to establish any baseline. Please identify the paid and unpaid staffing levels at Alcatraz, and incorporate those numbers into the baseline, to give a more accurate projection for staffing levels needed to protect other areas of potentially impacted habitat. **293** [BIU-4]

Impact on Other Sensitive Species: Brown Pelican...Page 5.14-29

COMMENT TBR 22: The DEIR inaccurately groups herons and egrets, which are wading birds, in with terns, which hunt while flying. This leads to the misleading assumption that egrets and herons forage over large areas of shallow water, when in fact they are restricted to the immediate shoreline, either standing on shore or in water no more than 8 inches or so deep. Please analyze the potential impacts to wading birds from private vessels or land-base spectators close to shore. **294** [BIU-4]

COMMENT TBR 23 The EIR must fully address the potential impacts of low-flying, or even high-flying, helicopters on upland habitat. The DEIR mentions helicopters in passing with regard to shallow water bird species, and elsewhere with regard to marine mammals. This is inadequate. Please describe potential impacts from helicopters or other aircraft on birds nesting on Alcatraz, bird feeding and roosting sites, and any other potential impacts on wildlife species, including the effects of air movement from low-flying helicopters. **295** [BIU-4]

Impact Summary, page 5.14-30-32

Environmental Council Comments
America's Cup DEIR Case No. 2010.0493E
Revised August 29, 2011

COMMENT TBR 24: Correction to Mitigation Measure M-BI-1a. The Mission Blue Butterfly is *Aricia icarioides missionensis*. *L.Albifrons* is its larval host plant. **296** [BIU-5a]

COMMENT TBR 4: Mitigation measures M-BI-1a, M-BI-1b, M-BI-1c, M-BI-1d, and M-BI-4b (page5.14-39): Please describe more explicitly the meaning of "working with" various federal and state agencies. Please explain how funding necessary to keep spectators and their dogs out of all sensitive areas will be provided. **297** [BIU-5a]

Mitigation Measure M-BI 1e: Restrictions on Fireworks and Night Lighting, Page 5.14-32

COMMENT TBR 25: The mitigation is inadequate as it only addresses potential impacts at Crissy Field. Please analyze the potential impacts of fireworks and night lighting on other locations; past occurrences suggest negative impacts on nesting and roosting birds on Alcatraz. See www.prbo.org/refs/files/11957_Acostaetal.2008.pdf **298** [BIU-5a]

Impact BI-2:riparian... (Pages5.14-32-33

COMMENT TBR 26: Please verify the CDFG recognition referred to. It is the Coast Live Oak Woodland on the western slope of Yerba Buena Island that is most at risk from damage by spectators. **299** [BIU-5a]

COMMENT TBR 27: Mitigation Measure M-BI-2 is inadequate. Signage alone is unlikely to keeping spectators off of the west slope of Yerba Buena Island. Please address the potential need for security personnel and how the TIDA will be supplied with sufficient resources for this. **300** [BIU-5a]

Mitigation Measure M-BI-3: Signage at Wetland Sites, pages 33-37

COMMENT TBR 28: The proposed mitigation measure is inadequate. Please describe how the success of these measures will be monitored and adjusted if necessary. Please explain or provide detail on the Fencing and Signage Plan and how it will be integrated into the project plan being evaluated... **301** [BIU-5a]

COMMENT TBR 29:-page 5.14-32 The potential impacts to Yerba Buena Island are inadequately described in Impact BI-2 and Mitigation Measure M-BI-2. Please address the potential impacts of spectators in historic cemetery site east of Treasure Island Road, which contains habitat for the Fiesta Flower *(Pholistoma auritum)*, as well as the buckeye grove uphill from it. Please address potential spectator impacts to the pygmy oak woodland habitat on the westernmost point and the tidepool habitat below. If spectators are allowed to line the causeway (a likely viewing area), it will be very difficult to keep them from accessing the adjacent sensitive habitat areas. **302** [BIU-5a]

[Wetland Mapping], Page 5.14-35

COMMENT TBR 30: PLEASE PROVIDE MAPS OF THE WETLANDS AT PIERS 94 AND 98. 303 [BIU-2]

COMMENT TBR 31: PLEASE IDENTIFY HOW THE PROPOSED MITIGATION WILL ADEQUATELY PROTECT THESE RESOURCES. WHAT ARE THE PLANS FOR MONITORING? WHAT MEASURES ARE IN PLACE IF SIGNAGE ALONE FAILS TO PROTECT THE WETLANDS? HOW WILL SIGNAGE BE ENFORCED? 304 [BIU-5a]

Impact BI-4 and Mitigation Measures M-BI-4a and M-BI-4b, Pages 5.14-37-39, "wildlife movement":

COMMENT TBR 32: SEE PREVIOUS COMMENT **TBR 25.** PLEASE JUSTIFY THE ASSUMPTION THAT HERONS AND EGRETS HAVE ADEQUATE ALTERNATE FORAGING LOCATIONS. PLEASE ANALYZE THE POTENTIAL TO IDENTIFY PRIME EGRET FORAGING AREAS AND PROVIDING A BUFFER ZONE. 305 [BIU-5a]

Mitigation Measure M-BI-4c: Protection for Breeding Birds... Page 5.14.40

COMMENT TBR 33: IN REFERENCE TO PIER 98 (VOL. 1, PAGE 3-111), PLEASE EXPLAIN HOW IT IS A "LESS THAN SIGNIFICANT IMPACT" IF EXISTING NESTING HABITAT FOR BIRDS IS PERMANENTLY LOST. WHAT IS LIKELY IDENTIFIED AS THE PIER 98 STRUCTURE REMOVAL IS NESTING HABITAT FOR THE BLACK OYSTERCATCHER. PLEASE ADDRESS HOW REPLACEMENT NESTING SITES WILL BE IDENTIFIED. PLEASE INCLUDE AN ASSESSMENT OF THE PROBABILITY OF A REPLACEMENT SITE BEING UTILIZED BY THE AFFECTED SPECIES. 306 [BIU-4]

5.14.3.4 Future Long-Term Development Impacts...

Mitigation Measure M0-LT-BIa, Pages 5.14-44-46

COMMENT TBR 34: PLEASE INCORPORATE THE PENDING CITY ORDINANCE REGARDING BIRD-SAFE BUILDINGS. PLEASE APPLY THE STANDARDS FOR BIRD SAFE BUILDINGS TO ANY NEW CONSTRUCTION. SEE http://www.sf-planning.org/index.aspx?page=2506 307 [BIU-5a]

COMMENT TBR 35: PLEASE PROVIDE DOCUMENTATION THAT BIRD STRIKES WOULD NOT OCCUR IN THIS LOCATION/ORIENTATION ABOVE 40 FEET. 308 [BIU-5a]

Environmental Council Comments
America's Cup DEIR Case No. 2010.0493E
Revised August 29, 2011

14. SECTION 5.14 (CONT) MARINE BIOLOGICAL RESOURCES

COMMENT MBR 1: THE DESCRIPTION OF THE PROJECT'S ENVIRONMENTAL SETTING IS INADEQUATE, AND SHOULD BE IMPROVED THROUGH ADDITIONAL CONSULTATION WITH LOCAL EXPERTS, INCLUSION OF ADDITIONAL CITATIONS, AND ADDITION OF IMPORTANT INFORMATION ABOUT CERTAIN SPECIES, THEIR BEHAVIOR AND LOCATIONS.

The DEIR describes the marine mammals most likely to be impacted as being harbor seals, California sea lions, harbor porpoises, gray whales, humpback whales, bottlenose dolphins and sea otters.[24] The following are examples of marine biological information that should be augmented in order to accurately determine the impacts of the project:

Harbor Porpoises: The DEIR provides very general information about harbor porpoises, but does not include specific information about abundance, distribution, movement, frequency of occurrence or behavior within the project area.[25] Valuable information about the Bay Area's harbor porpoise population is available from researchers at Golden Gate Cetacean Research.[26] The most effective way to protect these sensitive animals from noise or other impacts, such as boat strikes, is through seasonal and geographic avoidance and minimizing vessel traffic during tidal regimes that attract porpoises to specific areas. On-site monitoring of the porpoises during race events is therefore recommended. 309 [BIIM-1b]

Bottlenose Dolphins: The DEIR mentions bottlenose dolphins, but does not include specific information about their abundance, movement or frequency of occurrence.[27] According to Golden Gate Cetacean Research, bottlenose dolphins occur in San Francisco Bay from May through October approximately 2 to 3 times per week. They arrive in small groups, from 2 to 7 animals, and tend stay near the San Francisco shoreline, foraging east of the Golden Gate Bridge near Ft. Point and off Crissy Field.

Sharks: The DEIR mentions the presence of two species of sharks, Leopard sharks and spiny dogfish sharks[28], but it does not recognize that there are 11 species of sharks living in the Bay. According to an expert consulted at the Aquarium of the Bay, at least five of these species, including Sevengill sharks (*Notorynchus cepedianus*), are present in the Bay year-round, so the Bay is an important "nursery" area. Please update and supplement the information in the EIR to reflect this. Please consult with the

[24] DEIR at 5.14 65-68.

[25] 5.14-52, -67, -83.
[26] www.GGCetacean.org
[27] DEIR at 5/14-60, -82.
[28] DEIR at 5.14-57.

Aquarium of the Bay to gather additional information about the established areas where Sevengill sharks spend time, particularly around the Golden Gate Bridge and Alcatraz.[29]

Harbor Seals and California Sea Lions: The DEIR notes the existence of a year-round Harbor Seal haul out on Yerba Buena Island and permanent colonies of these animals around the Bay; it also notes the significant presence of California Sea Lions.[30] The DEIR should be enhanced with additional information about the pupping season for harbor seals (April-May) and the vulnerability of pups to strikes by high-speed boats.[31] Maps depicting the preferred haul-outs for seals and sea lions should be provided in the Final EIR, as well as in the Visiting Mariners information materials. Consultation with the Marine Mammal Center is advised; instructions and information for reporting sick or dead animals to the Center, and other important information such as boat speed limits and recommended observance distances should all be made readily available to officials and mariners alike. **309** [BIM-1b] cont.

COMMENT MBR- 2: THE DEIR FAILS TO AND MUST CONSIDER AND ASSESS IMPACTS TO ENDANGERED LEATHERBACK SEA TURTLE THAT INHABIT OCEAN WATERS IMMEDIATELY OUTSIDE THE GOLDEN GATE, WHICH WILL SOON BE ESTABLISHED AS CRITICAL HABITAT FOR THE SPECIES UNDER THE ENDANGERED SPECIES ACT.[32] LEATHERBACK SEA TURTLES ARE PRESENT OFFSHORE OF THE SAN FRANCISCO BAY DURING THE MONTHS OF JUNE THROUGH OCTOBER EACH YEAR IN AN ESSENTIAL FORAGING ZONE, AND ARE VERY SUSCEPTIBLE TO DEADLY VESSEL STRIKES AND THE EFFECTS OF ACCIDENTAL INGESTION OF TRASH OR MARINE DEBRIS. THE DEIR FAILS TO ADDRESS THE ISSUE OF INCREASED VESSEL STRIKES FROM INCREASED VESSEL TRAFFIC IN THE OCEANS SURROUNDING THE EVENT. ADDITIONALLY, THE DEIR FAILS TO CALCULATE THE IMPACTS OF INCREASED LITTER INTO SENSITIVE MARINE HABITATS OF THE SAN FRANCISCO BAY AND THE SURROUNDING NATIONAL MARINE SANCTUARIES. INGESTION OF TRASH AND MARINE DEBRIS IS DOCUMENTED TO BE COMMON FOR LEATHERBACKS SEA TURTLES, AND CAN HAVE FATAL CONSEQUENCES. MARINE DEBRIS ENTANGLEMENT IS ALSO A LETHAL IMPACT FROM THE INCREASED VESSEL USE OF THE BAY CAUSED BY THE AMERICA'S CUP, AND IMPACT THAT AFFECTS LEATHERBACKS AND ALL SPECIES OF MARINE MAMMALS. **310** [BIM-3c]

COMMENT MBR-3 THE DEIR GIVES INADEQUATE INFORMATION REGARDING THE SOUND ATTENUATION PLAN (*SEE* P. 5.14-98), DESCRIBING ONLY A MINIMUM SET OF ACTIONS. WITHOUT SEEING THE FULL PLAN, IT IS DIFFICULT TO ASSESS AND COMMENT ON THE ADEQUACY OF THIS MITIGATION MEASURE. PLEASE PROVIDE AND DEFINE THE FULL SCOPE OF THE SOUND ATTENUATION PLAN. **311** [BIM-5b]

[29] Information based on communications with Christina Slager, Director of Animal Care and Exhibitry at the Aquarium of the Bay, citing a paper currently under preparation, Movements and Distribution of Sevengill Sharks (*Notorynchus cepedianus*) in the San Francisco Bay, Slager et al.

[30] DEIR at 6.14-51, -52, -53, -65, -66.
[31] Information based on communications with Marine Mammal Center biologist.
[32] Settlement Reached to Protect Endangered Leatherback Sea Turtles in West Coast Waters, http://www.seaturtles.org/article.php?id=2081

Environmental Council Comments
America's Cup DEIR Case No. 2010.0493E
Revised August 29, 2011

As currently written, the DEIR fails to set realistic performance standards without which pile driving cannot occur. Instead, the DEIR impermissibly relies upon the as yet uncreated sound attenuation plan as a mitigation measure.[33]

By incorporating actions outlined in Mitigation Measure M-BI-11a, Mitigation Measure M-BI-11b sets a sound intensity level at 183dB. This decibel limit is not a strict rule, however. If activities exceed that decibel level, the project sponsor is not required to cease activity. Instead, pile driving can continue with the implementation of a "contingency plan" using a bubble curtain or air barrier.[34] Adequate mitigation would require that a bubble curtain or air barrier always be used, instead of waiting until sound threshold levels are exceeded. Mitigation Measure M-BI-11b requires that sound levels remain below 90 dBA in air when pinnipeds such as seals and sea lions are present[35], but fails to indicate what the project sponsor is to do if the levels exceed this level. Moreover, the DEIR does not provide scientific explanation for why these decibel threshold levels are used, and offers no supporting evidence that they would be sufficient to protect marine mammals. **311** [BIM-5b] cont.

COMMENT MBR-4: THE PROJECT SHOULD BE REQUIRED TO USE BEST AVAILABLE TECHNOLOGY TO REDUCE PILE DRIVER SOURCE LEVELS AND HORIZONTAL PROPAGATION.

There are significant additional activities that should be added to mitigate noise from pile driving associated with the installation and removal of temporary moorings, floating docks, wave attenuators, and pile-supported barges, and the installation of temporary steel piles to anchor the temporary floating docks and wave attenuators.

Reducing the source level and limiting the horizontal propagation from pile drivers has enormous benefit for both species and project managers. Such methods shrink the environmental impact area of the activity and therefore the area that must be monitored, along with the potential for forced shut-downs.

The project should be required to use at least one of the following methods to dampen or attenuate pile driver sound: bubble curtains, cushion blocks, cofferdams, and/or temporary noise attenuation pile ("TNAP") design. Please analyze and report on these options in the final EIR. **312** [BIM-5b]

COMMENT MBR-5: MITIGATION MEASURE M-BI-11A IS INADEQUATE TO PROTECT SOME SPECIES. PILE DRIVING AND OTHER CONSTRUCTION SHOULD BE SCHEDULED AROUND BIOLOGICALLY IMPORTANT PERIODS OR SEASONS. **313** [BIM-5b]

[33] An "[i]mpermissible deferral of mitigation measures occurs when an EIR puts off analysis or orders a report without either setting standards or demonstrating how the impact can be mitigated in the manner described in the EIR." *City of Long Beach v. Los Angeles Unified Sch. Dist.* 176 Cal. App. 4th 889, 916 (2nd Dist. 2009).
[34] DEIR at 5.14-98.
[35] *Id.*

Although the DEIR calls for using impact hammers only between June 1st and November 30th when the likelihood of sensitive fish species being present in the area is minimal, [36] similar precautions are not articulated for migratory marine mammals. Humpback whales are potentially in the area April through December.[37] Pile driving and other construction should be scheduled around biologically important periods or seasons.

Regarding marine mammals that are less migratory or live in the area year round, construction activity should be planned to take place outside of important biological times. For example, construction should not occur during high density times or calving periods for marine mammals.

This is particularly important with respect to the harbor porpoise. Of all marine mammals species studied thus far, the harbor porpoise is the most acutely sensitive to anthropogenic noise. Harbor porpoises are substantially more susceptible to temporary threshold shift (*i.e.*, hearing loss) from broadband, predominantly low-frequency pulsed sound than are the other cetacean species that have thus far been tested.[38] Several studies have confirmed their displacement away from pile drivers to a distance of at least 15 kilometers around each sound source, and indicate that in some cases the effect can persist for months or years after construction.[39] This result is consistent with both captive and wild animal studies showing harbor porpoises abandoning habitat in response to various types of pulsed sounds at very low received levels, well below 120 decibels (re 1 μPa (RMS)).[40]

313 [BIM-5b] cont.

COM-167

[36] DEIR 5.14-97.
[37] Id. at 5.14-83.
[38] Lucke, K., Siebert, U., Lepper, P.A., and Blanchet, M.-A., Temporary shift in masked hearing thresholds in a harbor porpoise (*Phocoena phocoena*) after exposure to seismic airgun stimuli, Journal of the Acoustical Society of America 125: 4060-4070 (2009).
[39] Evans, P.G.H. (ed.), Proceedings of the ECS/ASCOBANS Workshop: Offshore wind farms and marine mammals: impacts and methodologies for assessing impacts, at 50-59, 64-65 (2007) (ECS Special Publication Series No. 49, available at www.wdcs.org/submissions_bin/wind_farm_workshop.pdf); *see also* Carstensen, J., Henriksen, O. D., and Teilmann, J., Impacts of offshore wind farm construction on harbour porpoises: acoustic monitoring of echolocation activity using porpoise detectors (T-PODs), Mar. Ecol. Prog. Ser. 321: 295-308 (2006).

[40] *E.g.*, Bain, D.E., and Williams, R., Long-range effects of airgun noise on marine mammals: responses as a function of received sound level and distance (2006) (IWC Sci. Comm. Doc. IWC/SC/58/E35); Kastelein, R.A., Verboom, W.C., Jennings, N., de Haan, D., Behavioral avoidance threshold level of a harbor porpoise (Phocoena phocoena) for a continuous 50 kHz pure tone, Journal of the Acoustical Society of America 123: 1858-1861 (2008); Kastelein, R.A., Verboom, W.C., Muijsers, M., Jennings, N.V., van der Heul, S., The influence of acoustic emissions for underwater data transmission on the behavior of harbour porpoises (Phocoena phocoena) in a floating pen, *Mar. Enviro. Res.* 59: 287-307 (2005); Olesiuk, P.F., Nichol, L.M., Sowden, M.J., and Ford, J.K.B., Effect of the sound generated by an acoustic harassment device on the relative abundance and distribution of harbor porpoises (Phocoena phocoena) in Retreat Passage, British Columbia, *Mar. Mamm. Sci.* 18: 843-862 (2002).

Environmental Council Comments
America's Cup DEIR Case No. 2010.0493E
Revised August 29, 2011

The DEIR concludes that noise impacts to sensitive fish species would be reduced to less than significant by implementation of this mitigation measure[41] which calls for the development of a NMFS-approved sound attenuation plan.[42] Since the plan itself has not yet been created nor sufficiently described in the DEIR, it is difficult to comment on its adequacy.

313 [BIM-5b] cont.

COMMENT MBR-6: MITIGATION MEASURE M-BI-14 INADEQUATELY ADDRESSES NOISE IMPACTS FROM AIRCRAFT. PLEASE INCLUDE MORE DETAIL FROM THE AIR TRAFFIC PLAN.

Low flying aircraft, such as helicopters that are used to produce live video coverage of the races could disturb marine mammals. The project sponsors are to include "instructions to AC34 contracted and race affiliated helicopters" that they maintain an altitude of 1,000 ft above the water's surface when humpback whales are present within the race course.[43] However,

- There is no discussion as to how this mitigation measure is enforced.
- There is no discussion as to how the helicopter drivers will be informed as to whether humpback whales are present, or who is (and how they are) determining whether humpback whales are present.
- Are there other marine mammals aside from humpback whales could be disturbed.

314 [BIM-3d]

Location of Eelgrass Beds, Page 5.14-101 (Figure 5.14-7)

COMMENT MBR-7: PLEASE CORRECT THE ERRONEOUS PLACEMENT OF THE MOORING BUOYS SHOWN ON THE TOP OF YERBA BUENA ISLAND. PLEASE MAKE THE EELGRASS BEDS WITHIN CLIPPER COVE MORE OBVIOUS IN THE DIAGRAM. PLEASE ASSESS THE POTENTIAL HARM TO EELGRASS IN CLIPPER IF IT BECOMES A MAJOR ARRIVAL POINT FOR MANY SPECTATORS WHO ARRIVE BY BOAT AND ADEQUATELY MITIGATE.

315 [BIM-4a]

COMMENT MBR-8: THE DEIR INADEQUATELY ANALYZES POTENTIAL PROBLEMS RESULTING FROM NOISE FROM BOATS

The DEIR claims that 2,280 boats are anticipated to attend the 2013 AC34 races during peak race days, and fewer in 2012" and that "increased noise is not expected to be any greater than that which currently occurs on good weather days on the Bay." (DEIR 5.14-105). It concludes that "the contribution to overall ambient noise levels can be considered negligible and comparable to the existing ecological condition, and therefore, less than significant." The paragraph discussing this issue is very sparse and no detailed analysis or citations are provided to support this conclusion. It is difficult to imagine how this increase in boats doesn't equal an increase in noise.

316 [BIM-3d]

[41] 14 Cal. Code Regs § 15126.4(a)(1)(B).
[41] *See* CEQA Guidelines § 15126.4 (a)(1)(B); *Endangered Habitats League v. County of Orange*, 131 Cal. App. 4th 777, 793 (4th Dist. 2005).

[43] *Id.* at 5.14-107.

Again, no areas of avoidance for boats mentioned as potential mitigation.

Even if the assessment of ambient noise levels in and around the Bay is correct, the DEIR does not analyze localized disruptions from 2400 active boats. What impact those boats may have will depend on local species present.

The DEIR also doesn't contemplate that boats will likely be congregating in certain viewing spots, thereby concentrating the noise in certain areas.

316 [BIM-3d] cont.

COMMENT MBR-9: THE ANALYSIS OF COLLISIONS AND SHIP STRIKES WITH RACING AND SPECTATOR BOATS IS INADEQUATE.

The potential impact on marine mammals due to collision with the AC34 2012 or 2013 racing boats is deemed less than significant because as part of the Course Marshal's duties, the course will be inspected for the presence of any whales and floating debris and race management personnel on personal watercraft will be tasked with scanning the surface waters for "any obstructions such as whales that could possibly damage or impede fair play."[44] The potential impact on marine mammals due to ship strike from the spectator boats (estimated to be approx 2,280 boats at its peak in 2013) is considered potentially significant, but reduced to less than significant with the mitigation measure of providing information to visiting mariners.[45]

Please provide additional information about past interactions between marine life and the specific boats used in these races. Are the 2,280 spectator boats in addition to standard weekend traffic on the Bay? How was this number derived? What is known about ship strikes to marine mammals in the Bay during normal weekend?

317 [BIM-3a]

COMMENT MBR-10: MITIGATION MEASURE M-BI-12, VISITING MARINERS INFORMATION, IS AN INADEQUATE MITIGATION TO CONTROL POTENTIAL INVASIVE SPECIES

Aquatic invasive species (AIS) are a series potential problem, especially because spectator boats will travel from around the world, as well as from many places along the west coast to observe the AC34 races. Although commercial vessels carrying invasive species in their ballast water or ship biofouling are widely known to be significant vectors of AIS, recent studies have demonstrated that recreational boats are also potential vectors. The likelihood that a recreational vessel will carry AIS is highest among "yachts that travel long distances (between countries or across seas) and may spend significant

318 [BIM-7, BIM-8a]

[44] *Id.* at 5.14-106.
[45] *Id.*

durations of time at several overseas ports."[46] Many of the large spectator yachts that will travel to San Francisco for the AC34 are likely to meet these high threat characteristics.[47]

The DEIR acknowledges that the best way to control non-native species from hull fouling "is to minimize hull fouling through regular vessel maintenance, use of antifouling paints, frequent hull inspections, and overall vessel maintenance." It then states that these topics will be included in the Visiting Mariners Information, "thus reducing the risk of additional introduction of non-native and invasive species into the Bay from AC34 visiting boats to less than significant with mitigation."

The project sponsor is required to develop and implement an Invasive species control plan prior to beginning any in-water work (M-BI-16 Invasive Marine Species Control). The plan is to be developed in consultation with the U.S. Coast Guard, the Regional Water Board, and "other relevant state agencies."[48] While the DEIR articulates some minimum provisions that the plan should address, this list is not comprehensive. Mitigation measure M-BI-12 Visiting Mariners information will not be sufficient to reduce the impact to less than significant unless it contains that right information, distributed in an effective manner that maximizes compliance.

Please describe in detail how the Visiting Mariners Information will address invasive species control, how it will be distributed, and what mechanisms are planned to enforce its provisions.

"Heavy California boat traffic for races and fishing beyond local regions suggests a high risk for hull-borne AIS transport. Although many AIS have already reached California, it is important to prevent new (and possibly unknown) arrivals. It is also important to avoid spreading native species and locally established AIS to other areas."[49]

Hull-borne AIS can cause severe economic and ecological damage. Burrowing and fouling species can damage shorelines, structures, equipment, and vessels, requiring costly repair or replacement. Most significant and long-lasting are the ecological effects of AIS on the receiving region.32 33 34 35 36 They may prey on, parasitize, out-compete, cause or carry diseases, or alter habitats of native species.

However, the minimum provisions are too general to be able to assess whether they would be effective. For example, declaring that "actions to be taken to prevent the release and spread of marine invasive species, especial algal species such as Undaria and Sargasso"[50] should be included in the plan, does not

318 [BIM-7, BIM-8a] cont.

[46] Davidson, Ian C. et al, Recreational boats as potential vectors of marine organisms at an invasion hotspot, Aquatic Biology, Vol. 11: 179-1919, 2010
[47] *See*, John King, "Cup's yacht plan threatens our wide-open bay views" San Francisco Chronicle, Aug. 22, 2011, http://www.sfgate.com/cgi-bin/article.cgi?f=/c/a/2011/08/22/MNV21KON75.DTL (describing the berthing accommodations under consideration for dozens of spectator yachts at least 100 feet long).
[48] Id. at 5.14-111.
[49] Taylor Johnson, Leigh, et al, Rock the Boat! Balancing Invasive Species, Antifouling and Water Quality for Boats Kept in Saltwater, Regents of the University of California, Sea Grant Extension Program, Sept. 2007 at 4, http://ucanr.org/sites/coast/files/48356.pdf
[50] *Id.*

allow us to assess whether these actions would actually be meaningful. Please describe what actions are planned to control invasive species beyond education.

Reporting and hull husbandry activities similar to those performed for commercial vessels: collection of data and implementation of management requirements to prevent introductions via the vessel fouling vector.[51] Such data and accompanying guidelines for visiting mariners should address the frequency of hull painting, the locations the ship has visited, period of time in port, and the speeds the vessel typically traveled.

318 [BIM-7, BIM-8a] cont.

COMMENT MBR-11: THE VISITING MARINERS INFORMATION IS NOT SUFFICIENTLY EXPLAINED TO ALLOW ADEQUATE REVIEW IN THE DEIR.

To effectively mitigate the numerous potential impacts intended, the Visiting Mariners information will need to be clear, thorough, well-organized, well designed, and translated into many languages. The following improvements are also necessary.

1) Significantly more details are needed about measures required or recommended;
2) Additional information about speed restrictions and maps details about marine mammal areas of concentration and ;
3) Reference to existing tools and information that have already been developed;
4) A plan for distribution of materials that ensures uptake of information by visiting mariners and best possible compliance with all rules and guidelines; and

Please provide information on clear protocols planned for inter-agency coordination to enforce the Visiting Mariners provisions.

319 [BIM-8a]

[51] Takata, L. et. al, 2011 Biennial Report on the California Invasive Species Program, Produced for the California State Legislature by the California Marine Facilities Division, January, 2011, "Beginning in 2008, vessels operating in California waters are required to submit a Hull Husbandry Reporting Form (HHRF) once annually. This form requests information on certain voyage behaviors and maintenance practices that influence the amount of fouling that accumulates on the wetted surfaces of vessels, influencing the risk for NIS introduction." (*Id*, iii). See, http://www.slc.ca.gov/Regulations/Regulations_Home_Page.html#MarineInvasiveSpecies for regulations and hull husbandry form.

15. SECTION 5.16 – HYDROLOGY AND WATER QUALITY

Comments to the Hydrology and Water Quality section of the DEIR largely reflect prior concerns expressed during the EIR scoping process, as well as comments made by San Francisco Baykeeper on the Application for 401 Water Quality Certification for the Proposed Project. Comments contained herein are largely focused on impacts related to dredging, stormwater and indirect impacts associated with increased boat traffic throughout San Francisco Bay (Attachment 5, *Baykeeper Comments AC34 401 Certification*).

COMMENT HY-1: FAILURE TO ADEQUATELY DESCRIBE STORMWATER MANAGEMENT PRACTICES

Impact HY-2 of Section 5.16 (page 72) addresses potential stormwater-borne impacts to hydrology and water quality, concluding that impacts associated with the Proposed Project will be less than significant. This conclusion assumes compliance with the San Francisco Stormwater Management Ordinance (SMO)[52] and the Statewide Industrial General Stormwater Permit, yet the DEIR fails to identify what measures shall be implemented to maintain this level of compliance. Failure to identify specific measures indicates that potentially significant stormwater-borne impacts will not be adequately mitigated.

As identified in the DEIR, as well as the Application for 401 Water Quality Certification, stormwater shall be managed in a manner defined in two forthcoming Stormwater Control Plans, in addition to a Stormwater Pollution Prevention Plan (SWPPP). Within their response to the Application for 401 Water Quality Certification, the Regional Water Quality Control Board (RWQCB) cited a lack of information, precluding their ability to determine whether potential post-construction stormwater impacts will be minimized to the maximum extent practicable (Attachment 4, *RWQCB Incomplete Application AC34 401 Certification*).[53] We agree with the RWQCB that additional information is required regarding the design of post-construction BMPs intended to manage stormwater in a manner consistent with the SMO.

Failure on the part of the Port to comply with its own stormwater guidelines would seriously undermine San Francisco's efforts at reducing stormwater pollution and reduce flows to its combined sewer system. At a minimum, the DEIR must include, or at least reference, information including, but not limited to:

- Areal extent of new and replaced impervious surfaces from all project activities
- Opportunities and constraints of various post-construction BMPs, including green infrastructure techniques
- Stormwater sizing calculations

320 [HY-10a, HY-10b]

[52] *San Francisco Stormwater Design Guidelines*. 2009. Prepared on behalf of the City of San Francisco, San Francisco Public Utilities Commission and Port of San Francisco. Available at sfwater.org

[53] Letter from Shin-Roei Lee, Watershed Division Chief of the California Regional Water Quality Control Board San Francisco Bay Region, to the Port of San Francisco. July 22, 2011. Re: *Incomplete Application for Water Quality Certification for the 34th America's Cup Races and James R. Herman Cruise Terminal Project, San Francisco County*.

Without such details the Proposed Project cannot be properly assessed with regards to potential stormwater-borne impacts to water quality. One of our principal concerns with the fact that stormwater mitigation measures will not be identified until a later date is that stormwater will not be adequately managed, consistent with relevant requirements.

Pursuant to the SMO, the Proposed Project is subject to the following requirements, as found in the San Francisco Stormwater Design Guidelines:

> *All qualifying projects in the separate storm sewer area that disturb 5,000 square feet or more of the ground plane are required to capture and treat rainfall from a 0.2-inch per hour event or eighty percent or more of the annual stormwater runoff volume, determined from unit basin storage volume curves for San Francisco. Disturbed area includes any movement of earth, or a change in the existing soil cover or the existing topography. Land disturbing activities include, but are not limited to, clearing, grading, filling, excavation, or addition or replacement of impervious surface.*

To assist developers in complying with the SMO, San Francisco Public Utilities Commission (SFPUC) and the San Francisco Port have developed a tool for calculating the velocity and volume of stormwater that must be captured and treated for a given site.[54] This tool is the preferred method for conducting hydrologic calculations within separate sewer areas and assists users in sizing post-construction BMPs most suitable for a given site. **320** [HY-10a, HY-10b] cont.

Based on our use of the tool, some components of the Proposed Project shall be subject to considerable stormwater management requirements. For example, the James R. Herman Cruise Terminal at Pier 27 will result in the addition or replacement of approximately 350,000 ft^2 of impervious surfaces, requiring the management of approximately 17,000 ft^3 of stormwater, which has not been considered in the DEIR or reflected in project designs. In addition, the retrofit of Pier 32 could result in the replacement of up to 500,000 ft^2 of imperious surface, which would require the management of approximately 25,000 ft^3 of stormwater (Attachment 7, *Stormwater Calculations – Water Quality Volume and Water Quality Flow Rate Calculator*).

We urge proponents of the Proposed Project to determine the areal extent of impervious surfaces that shall be replaced or installed as a result of the Proposed Project and details should be provided regarding which types of post-construction BMPs would be most appropriate for the various components of the Proposed Project. Potentially suitable BMPs may include pervious pavement, rain gardens, cisterns for rainwater harvesting, extensive above-ground planters and media filtration units. Given the constraints of the Proposed Project and magnitude of stormwater that must be managed, multiple treatment technologies and approaches will likely be required, either in series as a treatment train or in the form of distinct stormwater management components. We urge the project proponents

[54] San Francisco Public Utilities Commission. *Separate Sewer Area BMP Sizing Calculators - Water Quality*. Available at sfwater.org

COM-170

to examine their options as early as possible to minimize delay and ensure consistency with the goals and features of the project. **320** [HY-10a, HY-10b] cont.

COMMENT HY-2: FAILURE TO CONSIDER DREDGING ALTERNATIVES THAT COULD MINIMIZE IMPACTS

Dredging of approximately 130,000 cubic yards (cy) is proposed within the basin between Piers 32 and 36; 6,000 cy within the berth at Pier 28 South and Pier 30 North; and 29,000 cy within the Piers 14-22 ½ Open Water Basin. This apparently reflects reductions in original proposals, made after the Bay Conservation and Development Commission (BCDC) expressed concerns over the magnitude and location of the proposed dredging operations. The DEIR, however, fails to compare the original dredging proposal with that being proposed or identify potential opportunities and constraints to further reductions.

In contrast with other dredging operations throughout San Francisco Bay, dredging in support of the Proposed Project does not serve a long-term economic benefit, based on projected uses of the affected areas. Yet these operations will result in significant short- and long-term impacts to benthic communities and disturbance to contaminated sediments, which shall make available for biotic uptake a number of pollutants known to be found in elevated concentrations at the proposed dredging and creosote piling removal sites, including PAHs and heavy metals.[55] To ensure affected sediment is suitable for dredging operations project proponents should undertake appropriate analytical analysis and ensure the project complies with statewide Sediment Quality Objectives (SQOs), which include the following requirements: **321** [AL-1, HY-4]

> *The Water Boards shall not approve a dredging project that involves the dredging of sediment that exceeds the objectives in Part 1, unless the Water Boards determine that:*
>
> *a) The polluted sediment is removed in a manner that prevents or minimizes water quality degradation.*
>
> *b) The polluted sediment is not deposited in a location that may cause significant adverse effects to aquatic life, fish, shellfish, or wildlife or may harm the beneficial uses of the receiving waters, or does not create maximum benefit to the people of the State.*
>
> *c) The activity will not cause significant adverse impacts upon a federal sanctuary, recreational area, or other waters of significant national importance.*

Project proponents must evaluate alternative dredging proposals intended to minimize disturbance to the maximum extent achievable. In particular, the scope of dredging operations between Piers 32 and

[55] Refer to Section 3.5.5 of the AC34 DEIR

36 appears excessive in its extent and close proximity to the Embarcadero. As explained above, dredging must be limited to areas deemed absolutely necessary for safe navigation. 321 [AL-1, HY-4] cont.

COMMENT HY-3: FAILURE TO CONSIDER INDIRECT IMPACTS FROM INCREASED BOAT YARD AND MARINA USAGE (BEGINNING PAGE 5.16-65)

Existing operations at many regional boat yards and marinas fail to comply with relevant water quality standards or employ appropriate management practices, which form the basis of regulatory standards the DEIR relies upon to reduce its indirect effects to less than significant levels.[56] Evidence of such non-compliance is available through review of annual stormwater reports, pursuant to the Statewide Industrial General Permit.[57] This issue is supported by the RWQCB, which expressed concern over the likely illicit discharge of sewage from spectator boats located throughout San Francisco Bay during the course of the Proposed Project.[58]

Without a substantial increase in enforcement actions leading to standard industry practices at these sites before Proposed Project operations begin increased pollution at these facilities resulting from increased usage from recreational and live-aboard vessels will be significant. To mitigate these significant impacts, we recommend measures intended to encourage boatyard compliance with California's Statewide Industrial General Stormwater Permit. The project can advance this compliance in at least two ways. First, a revolving grant or loan fund can be put in place to support the upgrades needed at area facilities to operate within established water quality standards while handling increased boat traffic from the Project. Second, the Project event authority should employ guidelines and criteria when selecting facilities to use, or directing boaters to regional facilities, such as through the notice to mariners. 322 [HY-8, HY-9c]

In general, the criteria must ensure that: (1) all hazardous containers are properly covered and protected from storm water; (2) waste debris generated through bottom cleaning and paint removal are contained and segregated from storm water; (3) production areas are bermed to prevent the flow of contaminated storm water to receiving waters; (4) storm water is adequately treated prior to discharge to receiving waters to avoid exceedances of water quality standards, particularly copper, zinc, and lead; (5) facilities employ dry sanding techniques with vacuum sanders to collect paint dust; (6) all spills and releases are cleaned quickly pursuant to a facility plan with adequate supplies in place; (7) adequate information and oversight is given to do-it-yourself boat owners to comply with the guidelines above; and (8) facilities adequately monitor storm water discharge locations for constituents such as copper, lead, and zinc to demonstrate compliance.

[56] Refer to Impact Summary section on page 5.16-69 of the AC34 DEIR.
[57] Data is available through the SWRCB SMARTS database for all boatyards and marinas which have filed a Notice of Intent to comply with the statewide Industrial General Permit. Available at www.swrcb.ca.gov
[58] Letter from Shin-Roei Lee, Watershed Division Chief of the California Regional Water Quality Control Board San Francisco Bay Region, to the Port of San Francisco. July 22, 2011. Re: *Incomplete Application for Water Quality Certification for the 34th America's Cup Races and James R. Herman Cruise Terminal Project, San Francisco County.*

Environmental Council Comments
America's Cup DEIR Case No. 2010.0493E
Revised August 29, 2011

For marinas, our chief concern is that adequate pumpout stations are provided and utilized. Regulators and concerned citizens have expressed concernshow that many live-aboard boats do not use available pump outs, and that marinas ineffectively enforce this requirement. Given the projected increase in boatyard usage due to this project, an appropriate mitigation is to facilitate these mobile pumpouts, with funding, advertisement, such as through the notice to mariners, and/or through selection criteria by the event authority when selecting available berths. 322 [HY-8, HY-9c] cont.

COMMENT HY-4: INADEQUATE DESCRIPTION OF REGULATORY FRAMEWORK FOR CRUISE SHIP DISCHARGES (5.16-48)

The DEIR inadequately and inaccurately describes the current federal, state and local regulatory framework for cruise ship discharges into San Francisco Bay, state and federal waters. The EIR must be updated to reflect the most current regulatory framework including the following:

Cruise Lines International Association "best management practices": Guidelines set by this cruise industry trade organization cannot be consider regulatory in any sense; as the guidelines are completely voluntary, and CLIA has never imposed penalties on member ships or cruise lines for violating them. We Recommend that mention of this trade group be eliminated from the regulatory framework or described more appropriately as a "voluntary guideline." 323 [HY-2]

MARPOL Annexes IV and V: The DEIR correctly identifies MARPOL as the primary avenue for setting standards for pollution from large international vessels. However, to be accurate and adequate to meet CEQA, the DEIR needs to describe recent updates to these annexes and the status of adopted of the amendments by the U.S. government.

U.S. EPA Regulations on Cruise Ship Discharges: The DEIR cites woefully outdated regulatory information, referring primarily to a 2008 Cruise Ship Discharge Assessment Report conducted by the agency in response to a Bluewater Network (now Friends of the Earth) petition. Since then the U.S. EPA has adopted new regulations requiring NPDES permits for certain cruise ship discharges (as a result of an NGO lawsuit) as well as proposing regulations to designate California state waters as a No Discharge Zone.

Comment HY-6: Mitigation measure M-BI-12 - providing Visiting Mariners Information – is not adequate to mitigate the impact of illegal discharges spills and litter from more than 2200 visiting craft;

There are three problems with this mitigation measures; first, the Visiting Mariners Information guide is not made available for review as part of the DEIR. Second, according to the DEIR, it will be developed as part of the *Water and Air Traffic Plan* which is also not available for review in the DEIR. The assumption of the adequacy of these document cannot be made in its absence. Finally, voluntary compliance alone is not adequate to fully mitigate impacts, but no provision is made for enforcement of water quality laws either by race management or by funding the appropriate authorities to cover the increased traffic. Mitigation must also include a described and funded enforcement program. 324 [HY-9a]

Comment HY-7: (page 5.16-70) The DEIR inappropriately assumes that "implementation of the Waste Management Plan and coordination with neighboring jurisdictions" would mitigate the impacts of litter on water quality to less than significant.

This assumption is made without identifying a single required action that must be included in the Waste Management Plan to make it effective, such as requiring America's Cup official vessels to include skimmers to retrieve trash from water's surface; limiting the availability of plastic and other food containers that do not biodegrade quickly in the environment; and banning single-use containers from temporary concession stands adjacent to the shoreline. Referring to an incomplete plan without making requirements as to its contents does not constitute adequate mitigation. **325** [HY-9e]

COMMENT HY-8: (PAGES 5.16-83-84) IMPACT HY-9 INCORRECTLY IDENTIFIES AREAS FOR FILL REMOVAL OUTSIDE OF THE BCDC SPECIAL AREA PLAN BOUNDARIES.
Every location identified for potential fill removal is outside of the boundaries of the BCDC Special Area plan. This assumption that the Plan will be amended to permit this action is premature. Sites within the SAP boundaries, such as portions of Piers 30-32, must be included **326** [HY-14]

Future Long-Term Impacts and Mitigation Measures

COMMENT HY-9: 5.16-25-28. IN IDENTIFYING FUTURE FLOODING RISKS DUE TO SEA LEVEL RISE, THE DEIR FAILS TO INCLUDE FLOODING THREATS RELATED TO THE CITY'S COMBINED SEWAGE AND STORMWATER INFRASTRUCTURE, WHICH WILL OCCUR SOONER THAT THOSE IDENTIFIED IN THE DOCUMENT.

In an article just published [reference article from last week]. SFPUC acknowledges that their outfalls already are inundated during storm surges, and plans through the SSIP referenced elsewhere in this document to install backflow devices on the outfalls to prevent seawater intrusion. In this event. That means that CSO events coupled with high tides *at current sea level* will result in shoreline flooding and sewer backup, and these occurrences will increase as sea levels continue to rise. [long-term development comment] **327** [HY-11]

COMMENT HY-10: THE DEIR FAILS TO PROPERLY IDENTIFY LONG-TERM IMPACTS OF THE PROJECT THAT WILL OCCUR AS SEAL LEVELS RISE

The document simply states that development must comply with new regulations as they are developed. This is wholly inadequate. The document must make a conservative assumption as to the level of sea level rise for the life of the leases, which would conclude in roughly 2080, and identify the environmental impact of this project under those conditions. **328** [HY-11]

16. SECTION 5.17 - HAZARDS & HAZARDOUS MATERIALS

We hereby incorporate by reference the comments submitted by Arc Ecology (Attachment 8) **329** [HZ-6]

17. CHAPTER 6 - OTHER CEQA CONSIDERATIONS

Comment CI-1: THE AMERICA'S CUP DEIR HAS SIGNIFICANT FLAWS IN ITS CUMULATIVE IMPACT ANALYSIS INCLUDING MAJOR INNACURACIES, OMISSIONS & MISLEADING DATA

Several months ago the Telegraph Hill Dwellers held a public forum on Port issues at the SF Art Institute. During the discussion period the Port was asked if, in the America's Cup DEIR, there would be a comprehensive analysis and mapping of all the construction projects currently underway downtown (e.g. Transbay Terminal) or that could be underway by 2012/2013 (e.g. Cable Car line rebuild). Without such an analysis the city officials won't have the ability to identify and mitigate potential construction-related conflicts, including delaying or disapproving upcoming projects that cannot be effectively mitigated.

We've searched the DEIR for this analysis (and maps) of nearby construction projects that could interfere with America's Cup operations as well as proposed mitigations to address this problem, but cannot find any serious discussion of the issue. This major deficiency is made even more problematic by the legal requirements imposed on the City by the *America's Cup Host and Venue Agreement* which states:

Section 10.4: *The City will use all lawful means to restrict noise and debris generating activities on public works and large private construction projects (if any) in areas reasonably proximate to the Event during America's Cup World Series Pre-regattas and the Regatta.* 330 [IO-6]

How can the City comply with Section 10.4 if it doesn't have an accurate list of the projects that could generate the noise and debris that must be mitigated?

Much is written in the DEIR about the impacts America's Cup construction activities could have on adjacent neighborhoods, but nowhere is there a discussion of how the construction and operation of the America's Cup itself will be impacted by existing or soon to begin construction projects in the downtown and waterfront areas and how these other projects add to cumulative impacts in the aggregate.

At first, we thought **Table 5.1-4**: "Short-Term Development Projects that Could Contribute to Cumulative Impacts" and **Table 5.1-5**: "Long-Term Development Projects that Could Contribute to Cumulative Impacts" were going to address this issue but there are such gross inaccuracies in these charts that they only underscore the DEIR's failure to address these significant environmental and legal issues.

There is very little analysis provided for the long-term development projects listed on Table 5.1-4, ones defined as projects "with a planning horizon of 2035". But it turns out there are projects on the Long-Term list that clearly belong on the Short-Term list and vice versa, throwing much of an already inadequate analysis into serious question.

Mistake #1: The **8 Washington/SWL 351 Project** had a DEIR publication date of June 15, 2011, a DEIR public hearing on July 21, 2011 and a comment period from June 15, 2011 to August 15 2011. These milestones all predate those of the America's Cup DEIR. Had the authors of this DEIR read the 8 Washington DEIR, they would have known that 8 Washington has a projected construction timeline of "27-29 months" from "2012 to 2014". The seven-month excavation period, in which 110,000 cubic yards 331 [IO-6]

COM-173

Environmental Council Comments
America's Cup DEIR Case No. 2010.0493E
Revised August 29, 2011

of soil will be removed from the site via 9,166 dump trucks driving on The Embarcadero, will clearly take place in 2012-2013 (see discussion below).

In light of this information how can the America's Cup DEIR possibly consider 8 Washington to be a "Long-Term Development Project" for the purposes of its cumulative analysis? Projects don't get much more Near-Term than this.

Page 5.1.13 of the America's Cup DEIR defines Near-Term as follows:

> *"In general, for the purpose of this EIR, the analysis employs the list-based approach to identify cumulative effects associated with near-term projects that could contribute to cumulative impacts during the construction and operations of the AC34 facilities and events".*

331 [IO-6] cont.

On the same page, Long-Term is defined as:

> *"In addition to the near-term cumulative impacts, this EIR considers cumulative impacts associated with the potential long-term development with a planning horizon of 2035 that could contribute to cumulative impacts associated with long-term operation of the James R. Herman Cruise Terminal and Northeast Wharf Plaza and development options under the AC34 Host Agreement. The basis for the long-term cumulative analysis is based mainly on economic forecast derived from the Association of Bay Area Governments' forecasts and Metropolitan Transportation Commission regional transportation forecasts. The long-term cumulative analysis applies mainly to the transportation and circulation impacts."*

Perhaps the authors should have consulted the SF Planning Department and the commercial/residential project pipeline charts in the *SF Business Times*[See Attachment 9], rather than ABAG or MTC, for a more accurate accounting of 'near-term' vs. 'long-term' projects.

Mistake #2: The DEIR's Near-Term chart lists **Pier 70** as a Near-Term project, a project unlikely to even have a Draft EIR out before the America's Cup in 2013. It's also unlikely Pier 70 will complete environmental review and project approvals in less than five years with construction beginning several years after that. Knowing this, why is Pier 70 a **Near-Term** project and 8 Washington a **Long-Term** project? 332 [IO-6]

Mistake #3: A Near-Term project in Sausalito is NOT near-term. Shown as Sausalito Harbor Improvements (Sausalito Harbor Improvement Project), it's "a new City harbor in front of Gabrielson Park including a new 20-foot wide stone seawall to accommodate 50-70 boats" at a cost $20-25 million. The pet project of a few local architects and wealthy yachtsmen, it's supposed to be funded by a $20 million grant from the Dept. of Homeland Security as an 'evacuation site' for Marin. No one in Sausalito takes this "Near-Term" project seriously, not even as a "Long-Term" project. 333 [IO-6]

What other mistakes (other than the three mentioned above) have been made in listing projects as either Near-Term or Long-Term?

The DEIR cannot accurately analyze issues such as traffic circulation and transit issues (and conflicts) without accurate baseline data. At minimum, the errors noted must be corrected and available 334 [IO-6]

Planning Department information on upcoming projects reviewed for accuracy and inclusion in the tables noted. 334 [IO-6] cont.

COMMENT CI-2: THE DEIR IS INACCURATE AND MISLEADING IN ITS ANALYSIS OF CUMULATIVE IMPACTS ON TRANSPORTATION, AIR QUALITY AND OTHER ISSUES AS A RESULT OF ITS LACK OF SPECIFIC ANALYSIS OF PROJECTS SUCH AS 8 WASHINGTON.

The absence of one particular project, **8 Washington/SWL 351**, from any analysis in the America's Cup DEIR, is particularly troubling given that even a casual read of the 8 Washington DEIR, out for comment from June 15, 2011 thru August 15, 2011, would have demonstrated the need for greater scrutiny of it in the America's Cup DEIR.

Comments submitted earlier on the 8 Washington DEIR clearly prove that that it was inaccurate in predicting that 8 Washington's sponsors could remove 110,000 cubic yards of soil from the site in just seven months. As we'll demonstrate below, it will take 22 months to remove this soil, not seven...**THAT'S 22 MONTHS WITH 9,166 DUMP TRUCKS DRIVING ON THE EMBARCADERO AT THE EXACT SAME TIME THE 2012 AND 2013 AMERICA'S CUP RACES ARE TAKING PLACE.** Why is there NO mention of this in the America's Cup DEIR? The following section speaks to the significant impacts 8 Washington will have on America's Cup operations.

A. The DEIR construction schedule for 8 Washington is inaccurate and misleading.

The construction schedule set forth in the 8 Washington DEIR is based on overly optimistic assumptions that are totally unrealistic. The ramifications of these erroneous assumptions need to be carefully considered in the 8 Washington DEIR and the America's Cup DEIR, as they will cascade throughout both projects requiring major revisions to these DEIRs before they can be considered accurate or complete. 335 [IO-6]

At the bottom of page II.19 of the 8 Washington DEIR it states:

> *Project construction, including demolitions, site and foundation work, construction of the parking garage, and construction of the buildings, would take 27-29 months. Assuming that construction would begin in 2012, the buildings would be ready for occupancy in 2014. The first phase of the construction would take about 16 months and would include demolition (2 months), excavation and shoring (7 months), and foundation and below grade construction work (7 months).*

While the DEIR unequivocally states the project will take **27-29 months** to construct, **from 2012 to 2014**, facts provided elsewhere in the DEIR together with current city policies, the city's *America's Cup Host and Venue Agreement* and basic math indicate that this schedule is **not** tenable. The remainder of this section provides the data and analysis that lead to the conclusion that construction of 8 Washington will take much longer than 27-29 months, **TWICE AS LONG**, with the excavation phase, the one that impacts the America's Cup operations the most, taking **2.5 to 3 TIMES LONGER**.

Table 1: Required Changes to 8 Washington construction schedule

ACTIVITY	MINIMUM		MAXIMUM
DEIR's construction schedule:	**27 months**	to	**29 months**

Environmental Council Comments
America's Cup DEIR Case No. 2010.0493E
Revised August 29, 2011

***Actual excavation schedule*:**	**18 months**		**22 months**
-- DEIR estimate for excavation	- 7 months		- 7 months
+ Increased excavation time	**11 months**	to	**15 months**
+ Archeology delays	**.5 months**	to	**2 months**
+ America's Cup delays	**2.5 months**	to	**5 months**
+ Weather delays	**.25 months**	to	**1 months**
ACTIVITY	**41 months**	to	**52 months**

335 [IO-6] cont.

To refute the numbers in Table 1, 8 Washington sponsors must present verifiable data supporting their unrealistic assumptions, beginning with the claim that the first phase of construction takes 16 months with a mere seven months for excavation/shoring.

B. The DEIR fails to accurately ascertain and analyze the excavation/shoring schedule.

The 8 Washington DEIR states on page II.20 that "approximately 110,000 cubic yards of soil" will be excavated from the site for an underground garage (approx. 90,000 cubic yards) and other foundation work during the seven (7) month "excavation" portion of the projected timeline. It later states excavation will take place 6.5 hours/ day with an average of 20 truck trips/day (pg.IV.D.31). Assuming the average dump truck holds 12 cubic yards of dirt (typical dump truck payload) that would mean:

- ☐ **110,000 cu. yards/12 cubic yards per truck = 9,166 truck trips**
- ☐ **20 trucks/day X 12 cubic yards/trip = an average of 240 cu. yards/day**
- ☐ **110,000 cu. yards/240 cu. yards per day = 458 working days for this task**

336 [IO-6]

Could this task be completed in seven (7) months as claimed in the DEIR? NO.

☐**5 working days per week X 52 weeks = 260 working days per year**

- 11 holidays per year

249 total working days/year

☐**458 days to finish task/249 working days per year = 22 months[59] (not 7)**

For this to take 7 months as the DEIR asserts, the following would have to be true:

[59] This rather conservative number assumes no weather, archeological or America's Cup delays.

☐ **20 trucks/day X 7 months (145 working days[60]) = 2,900 total truck trips**[61]

☐ **110,000 cu. yards/2,900 trucks = each truck must average 38 cubic yards/trip**

Empirical evidence exists, however, proving that claims in the 8 Washington DEIR that the excavation will take seven months are both inaccurate and misleading:

336 [IO-6] cont.

CASE STUDY #1: San Francisco General Hospital Rebuild Project

A recent SF General Hospital (SFGH) *Newsletter* reports the hospital's contractor just finished hauling 120,000 cu. yards of dirt from the 45' deep hole that was dug to build two basement levels and the foundation for a new hospital building. This is as close as anyone is likely to get to replicating what 8 Washington proposes, a three level 40' deep underground garage accounting for most of the 110,000 cubic yards of dirt that must be removed from the site.

A call to the *SFGH Rebuild* office revealed their excavation process took seven (7) months with an average truck load of 13 cu. yards per trip. How was that possible?

> *"The average truck load was 13 cubic yards. Some days we had* ***over 300 truck loads hauled in one day****. This volume was possible through use of a paved drive that allowed trucks to enter the side, be loaded up then tires washed to prevent dirt on road causing storm-water pollution and dust."*[62]

337 [IO-6]

The SF General site is just a few blocks from U.S. 101 with direct access via Potrero Ave., thus minimizing potential traffic conflicts. The 8 Washington site will require driving long distances on city streets including "The Embarcadero, Harrison Street, and King Street... likely the primary haul and access routes to and from I-80, U.S. 101, and I-280 (pg. IV.D.31)." Imagine 300 trips a day on one of these streets.

CASE STUDY #2: SF PUC's New Hetch Hetchy Reservoir Tunnel

A recent *Oakland Tribune* story (4/8/11) describes construction of a new 3.5-mile tunnel designed to protect the water supply from SF's Hetch Hetchy reservoir from major earthquakes by boring a 2nd, state-of-the-art tunnel from Sunol to Fremont alongside the existing 81-year-old Irvington Tunnel. The article states:

> *"By the time the New Irvington Tunnel is completed in 2014, crews will have excavated about 734,000 cubic yards of material—the equivalent of 61,000 dump-truck trips, said officials with the SF Public Utilities Commission."*

[60] 4.33 weeks/mo. X 5 days/week = 151.5 days in 7 months – 6.5 holidays [11days X 7/12's] = 145 days.
[61] As opposed to *110,000 cu. yds./12 cu. yards per truck trip which equals* ***9,166 truck trips.***
[62] Source: July 28th email from Tristan Cook, SFGH Rebuild Public Relations Director.

COM-175

Environmental Council Comments
America's Cup DEIR Case No. 2010.0493E
Revised August 29, 2011

Dividing **734,000 cubic yards** of soil by the **61,000 dump truck trips** that the PUC says are necessary equals **12 cubic yards per truck trip**. Given this job's overall size and $227 million budget, it would seem to confirm the fact that the most efficient excavation equipment for the 8 Washington site will be 12 cubic yard dump trucks.

In light of these facts and the analysis provided above, the only way 8 Washington could meet its proposed seven (7) month excavation schedule would be to:

a) schedule up to 300 TRUCK TRIPS A DAY, over **10 TIMES** the average number of trips per day (20) stated in the DEIR and **3 TIMES** the absolute maximum of 100 truck trips per day (pg. IV.D.31)[63] along the Northeast Embarcadero during a period of time that directly overlaps with the major America's Cup events and activities, something specifically prohibited by the City's *America's Cup Host and Venue Agreement*[64],

OR

b) average 38 cubic yards of dirt per truck trip, 3 TIMES the average truck payload of both the PUC's Irvington Tunnel project and SF General Hospital's 120,000 cubic yard excavation project—assuming that 38 cubic yard trucks: a) exist in sufficient quantity in the Bay Area, b) would be available during that period of time and c) would be allowed on The Embarcadero, Harrison St., King St., Washington St. and Drumm St. by the City. [*see photo comparison of 12 cubic yard vs. 30 cubic yard trucks below*]

337 [IO-6]

Unless the 8 Washington project sponsor can demonstrate one of these two highly unlikely scenarios is possible, then the EIR must reanalyze a number of impacts (e.g. Land Use, Air Quality, Greenhouse Gases) based on a revised excavation schedule, one that takes **2.5 to 3 TIMES** as long as the one described in DEIR to complete excavation work, and this 22 month timeline assumes NO archeological remains are found on site and the City imposes NO stop work orders related to America's Cup (see below).

This **15-month difference** between the excavation period analyzed in the DEIR and the ACTUAL time it will take (22 months vs. 7 months) is a major deficiency with profound impacts. Some of the most significant unavoidable negative impacts listed in the 8 Washington DEIR involve air quality during and after construction. Adjusting the EIR analysis to reflect how long excavation actually takes means the significant air quality impacts related to excavation (with the greatest detrimental effect on seniors and children) will persist for **2.5 to 3 TIMES LONGER** than described in the DEIR.

[63] *"Construction-related activities would typically occur Monday through Friday, from 7 AM to 4 PM. It is anticipated that some construction activities may occur later or on Saturdays, on an as-needed basis".*

[64] Section 10.4: *The City will use all lawful means to restrict noise and debris generating activities on public works and large private construction projects (if any) in areas reasonably proximate to the Event during America's Cup World Series Pre-regattas and the Regatta.*

In light of this new information, the next draft of the both the *8 Washington DEIR* and the *America's Cup DEIR* must contain an analysis of this longer overall construction period for 8 Washington—two months for demolition; a range of **18 to 22 months for excavation** (not seven months); **a built-in range of time for the shutting down of the site when archeological artifacts are uncovered, documented and extracted** (something the DEIR's archeology consultant states is "likely"[65]); and the building construction period.

Finally, given the overly aggressive excavation schedule estimates for 8 Washington, all other estimates for later construction phases of this project must now to be cross checked for accuracy by independent contractors (e.g. not working for 8 Washington developer or the source of the prior DEIR excavation estimate).

337 [IO-6] cont.

B. The actual construction timeline for 8 Washington will be 41-52 MONTHS.

If the 8 Washington project sponsors disagree with this assessment, they must provide the Planning Department with much more detailed information on how they expect to achieve a shorter construction period given the restrictions described in the DEIR itself as well as mathematical analysis described above. For instance,

- ***Did the developers err when they reported that the average number of truck trips per day would be 20 as analyzed in the DEIR?*** If so, what number do they choose to use now and how does that impact various aspects of the DEIR analysis such as air quality, conflicts with pedestrians, MUNI and America's Cup, etc..

- ***Does the developer plan to raise the limit of truck trips per day from 100 (as per the DEIR) to 300 truck trips per day?*** If so, how often will this happen and how will these changes impact various aspects of the previous EIR analysis (e.g. air quality, traffic/transit/pedestrian conflicts, America's Cup)?

- ***Does the developer plan to lengthen the average workday or work six days a week?*** If so, how often and how would this impact the previous DEIR analysis? NOTE: The DEIR construction schedule (27-29 months) was not predicated on the trucks operating 6 days a week EVERY WEEK. But even if the developer ran dump trucks 6 days a week for the ENTIRE excavation period it would still take TWICE AS LONG as the DEIR states to remove 110,000 cubic yards of dirt[66].

- ***Where is the project sponsor planning to route 100 to 300 trucks a day as they leave the site, particularly during the various America's Cup trials (2012) and finals (2013) when vehicular traffic will be severely limited or prohibited?*** Washington Street? The Embarcadero? Drumm Street? Clay Street?, where exactly?

- ***Have the developers located a source of 30+ cubic yard trucks and secured city permission to use them on the specific streets described in the DEIR?***

It seems fair to assume the SF General Hospital's excavation contractor would have done this if it were possible (and the SF PUC's Irvington Tunnel contractor). *See the three photos below to get a sense of the*

338 [IO-6]

[65] DEIR page IV.C.11: "*Significant archeological resources are likely to exist at this site*".
[66] 6 working days/week X 52 weeks = 312 working days – 11 holidays = 301 working days.
458 days for task/301 working days = 1 year + 157 days/24 days per month = 18.5 months.

Environmental Council Comments
America's Cup DEIR Case No. 2010.0493E
Revised August 29, 2011

size difference between a typical 12 cubic yard dump truck and the type of tractor-trailer rig required to carry 30 cubic yards or more.

As the data above demonstrates, the 8 Washington DEIR's claim that 110,000 cubic yards can be excavated in seven months defies the laws of physics and math, not to mention the *America's Cup Host and Venue Agreement* between the City and Larry Ellison's Oracle BMW Racing Team (see section C which follows).

338 [IO-6] cont.

A typical 12 cubic yard dump truck

Diesel tractor/trailer carrying 30 cubic yard box

30 cubic yard belly dump trailer minus tractor (see above)

C. Additional Factors that will certainly add time to the Construction Schedule.

A thorough reading of the 8 Washington DEIR's Archeology section and *America's Cup Host and Venue Agreement* indicate that additional time must be built into the construction schedule for predictable work stoppages related to both issues.

KNOWN ARCHEOLOGICAL RESOURCES IDENTIFIED ON THIS SITE IN THE DEIR

On page IV.C.12, the 8 Washington DEIR's archeology consultant, Archeo-Tec, identifies the Gold Rush ship *Bethel* as located under a portion of the site and states "If discovered, the *Bethel* would be the oldest known (and perhaps most intact) archeological example of an early Canadian built ship". On page IV.C.11, the archeology consultant states "*Significant archeological resources are likely to exist at this site*". The DEIR, goes on to state the proposed project will destroy a portion of city's original Seawall causing "the largest disturbance of the Old Seawall to date". **339** [IO-6]

As a result of these DEIR findings, this archeology consultant should now be asked for an estimate of the time required to mitigate the discovery of the *Bethel* and other likely finds (e.g. original Seawall, other Gold Rush ships, original Chinatown). This "likely" work delay should be built into the construction schedule and stated as a range. For purposes of the matrix below (Table 1) we chose a time of two weeks to two months based on anecdotal information from other similar sites. Archeo-Tec, the archeology consultant, should be able to come up with a more precise estimate.

COMMENT CI-3: THE 8 WASHINGTON SCHEDULE CREATES AMERICA'S CUP SCHEDULING CONFLICTS **340** [IO-6]

Based on recent MTA staff presentations on protocols for the America's Cup, it seems clear that traffic, particularly construction dump trucks, will be banned from Washington Street, Drumm Street and The

Environmental Council Comments
America's Cup DEIR Case No. 2010.0493E
Revised August 29, 2011

Embarcadero during major America's Cup events that include, at a minimum, the America's Cup World Series warm-up races (July/Sept. 2012), the penultimate Louis Vuitton Cup Series (July/August 2013) and the America's Cup finals (Sept. 2013).[67]

This represents a minimum of 2.5 months that must be added to the construction schedule, something the 8 Washington DEIR authors should have included if they had read the America's Cup DEIR which states there are 9 weeks of races associated with this event in 2012/2013. The extra few weeks added to the low-end range in Table 1 (below) are there to accommodate last minute weather delays (after the streets are closed) and large non-racing events held along the waterfront that will require closure of The Embarcadero, Washington Street, Drumm Street, etc.

Table 1 below lays out a more credible and realistic construction schedule based on the factors described at length above, taken directly from the DEIR or readily available from the city (e.g. America's Cup DEIR) and the *America's Cup Host and Venue Agreement.*

Table 1: Required Changes to 8 Washington construction schedule

ACTIVITY	MINIMUM		MAXIMUM
DEIR's construction schedule:	**27 months**	to	**29 months**
***Actual excavation schedule*:**	**18 months**		**22 months**
-- DEIR estimate for excavation	- 7 months		- 7 months
+ Increased excavation time	**11 months**	to	**15 months**
+ Archeology delays	**.5 months**	to	**2 months**
+ America's Cup delays	**2.5 months**	to	**5 months**
+ Weather delays	**.25 months**	to	**1 months**
ACTUAL CONSTRUCTION TIME	**41 months**	to	**52 months**

340 [IO-6] cont.

To refute these numbers, the project sponsors must not only present a verifiable and detailed plan to remove 110,000 cubic yards (9,167 truck trips) in seven months that the City has signed off on but also produce a letter from the City and Oracle BMW Racing granting a waiver from Section 10.4 of the *America's Cup Host and Venue Agreement* that would allow 20 to 300 trucks a day to drive along The Embarcadero, Washington Street or Drumm Street during major America's Cup events in 2012 and 2013.

[67] Note: a copy of these comments will provided to Peter Albert, SF Municipal Transportation Agency's America's Cup point person so he and his colleagues can comment on construction delays anticipated for 8 Washington given its prime location re: all major America's Cup events and related activities.

Comment CI-4: Significant Transportation and Energy issues were not addressed in DEIR.

More specific information related to the construction process needs to be provided and analyzed in the 8 Washington EIR, particularly regarding far reaching impacts of those 9,166 dump truck trips, impacts that go beyond the Northeast Waterfront.

The 8 Washington DEIR states *"While exact routes that construction trucks would use would depend on the location of the available disposal sites, The Embarcadero, Harrison Street, and King Street would likely be the primary haul and access routes to and from I-80, U.S. 101, and I-280".* At a minimum, the EIR needs to include information on where the two or three most likely disposal sites are located, based on recent experience (SF General Hospital excavation) so that one can analyze the extent of potential conflicts on the Bay Bridge or 101 South where other trucks will be transporting dirt to and/or from the Transbay Terminal project, Hunters Point Shipyard, Mission Bay, Treasure Island, etc. Without this information, the City could find itself creating significant traffic conflicts on the Bay Bridge or highway 101 that greatly increase air quality, traffic and transit problems without having analyzed these potential impacts in a flawed EIR.

Simply saying *"While the exact routes that construction trucks would use would depend on the location of the available disposal sites"* isn't adequate or acceptable. Assumptions must be made regarding most likely disposal sites and routes to those sites and what additional cumulative impacts these routes (and 9,166 trucks) will create. Both the

8 Washington and America's Cup EIRs must provide a MAP of the routes to be used for hauling this soil, all the way from the departure point at 8 Washington to the final destination(s) with an explanation of where trucks will drive and what restrictions there are on hours, size of payload, safety, etc. for the various streets, highways and bridges they will travel on. If the options include trucking the soil to San Francisco's southern waterfront to transfer it to barges, then this needs to be disclosed and analyzed, including potential routes and destinations of barges before, during and after the America's Cup. 341 [IO-6]

In addition, to accurately compare the environmental impacts of the project sponsor's 'Preferred Project' to the "No Project" alternative (energy consumption, traffic impacts, air quality degradation, etc.), one needs to know not only what the destinations of the approximately 9,166 dump truck trips are but also the average miles per gallon for a typical dump truck. For instance, if the final destination for the soil was 50 miles away and a typical dump truck averages 8 miles per gallon of diesel fuel, then:

9,166 truck trips X 100 miles per round trip = **916,600 miles** for all dump trucks;

916,600 gallons/8 MPG = **114,575 gallons of diesel fuel** that would be burned.

In other words, the city's choices would be:

114,575 gallons of fuel used to transfer 110,000 cubic yards 916,600 miles

VS.

ZERO (O) gallons of fuel used if the NO PROJECT alternative were approved.

COM-178

Environmental Council Comments
America's Cup DEIR Case No. 2010.0493E
Revised August 29, 2011

E. Importance of accurate, detailed information re: the construction process.

Given the above discussion, it is clear that the construction schedule set forth in the 8 Washington DEIR is inaccurate and misleading and has led, in many cases, to the significant understating of major negative impacts associated with that project. The lack of a detailed discussion of some of the key aspects of the construction process, e.g. the route and destination of 9,166 dump trucks, is also highly problematic.

The America's Cup DEIR must now look at the conflicts created by 8 Washington excavating 110,000 cubic yards of soil in 9,166 trucks on The Embarcadero at the same time as the major races scheduled for the America's Cup (2012/2013), and cannot rely on the 8 Washington DEIR draft (7 month excavation) but MUST address the questions and data set forth in this section (22 month excavation). 342 [IO-6]

Without a complete and thorough analysis of the impacts of an overall construction schedule that is TWICE AS LONG as the one analyzed in the 8 Washington DEIR, city officials will be missing critical information they need to analyze conflicts between the 8 Washington project sponsor's 'Preferred Project' and Section 10.4 of the *America's Cup Host and Venue Agreement.* ***A complete and factual analysis of these issue must be included in the next draft of the America's Cup EIR.***

Comment CU-5: THE DEIR IS INADEQUATE AND INCOMPLETE IN ITS FAILURE TO INCLUDE ANY ACKNOWLEDGEMENT OR ANALYSIS OF ASIAN NEIGHBORHOOD DESIGN'S *A COMMUNITY VISION FOR SAN FRANCISCO'S NORTHEAST WATERFRONT* IN ITS DISCUSSIONS OF CONNECTING THE NORTHEAST WATERFRONT TO THE REST OF THE CITY, PARTICULARLY CHINATOWN AND NORTH BEACH.

On pages 4-21 through 4-22 of the America's Cup DEIR a discussion of "Objectives for the Northeast Waterfront subarea" includes the following:

· Protect historic resources as the area evolves;
Continue cargo support activities for as long as feasible; ·
Encourage new activities to draw San Franciscans to the water's edge; ·
Highlight gateways to Fisherman's Wharf, North Beach, and Chinatown.

Meeting the first, third and fourth of these objectives is at the heart of this comprehensive community plan for the Northeast waterfront (prepared by Asian Neighborhood Design) entitled *A Community Vision for San Francisco's Northeast Waterfront*, a plan that, to the best of our knowledge, wasn't mentioned in the America's Cup DEIR. 343 [PP-3c]

This community based plan is not to be confused with the Planning Department's *Northeast Embarcadero Study* (NES). On July 7, 2010, when the Planning staff presented the NES to the Planning Commission, AND and the community sponsors of the "*Community Vision for the Northeast Waterfront*" were also invited to present a summary of their planning work to the Planning Commission.

A TALE TWO WATERFRONT PLANS

The 8 Washington DEIR has already been criticized for its biased discussion of the *Northeast Embarcadero Study* (NES) and failing to include an equally detailed discussion of the background and recommendations of Asian Neighborhood Design's *A Community Vision for San Francisco's Northeast Waterfront.*

The second sentence in the third paragraph of the Introduction to the 8 Washington DEIR states that the purpose of *the Northeast Embarcadero Study* (NES) was "to foster consensus on the future of Seawall Lot 351 and at other seawall lot properties on the northern waterfront" and leaves the reader with the impression that it succeeded in this goal by stating how many public workshops were held (five) and "on July 8, 2010, the San Francisco Planning Commission adopted a resolution that it 'recognizes the design principles and recommendations of the Study' and urges the Port to consider the recommendations of the NES when considering proposals for new development in this area".

What the 8 Washington DEIR fails to mention is the level of anger and frustration expressed by the majority of the public that attended these five workshops who felt the Port, who was paying for the NES, was dictating its conclusions in order to facilitate the approval of 8 Washington. For example, when 30-40 people at a workshop opposed the notion advanced by Planning staff that The Embarcadero needed a "hard edge" and "higher heights" for the 8 Washington site and only

6-8 people expressed support for these ideas, the notes from that meeting would later say that opinion was 'divided' on these matters. [To its credit, the Planning Department states clearly in the final draft of the NES that it failed in its goal of achieving consensus on the future of SWL 351].

People were so upset by what they perceived as a transparent attempt to 'justify'

the 8 Washington project, that they began their own community-based planning process to address the larger issues of reconnecting Chinatown, North Beach, Russian Hill and Telegraph Hill to the Waterfront, and healing the wounds left by the Embarcadero Freeway ramps by making Broadway and Washington Streets more pedestrian, bicycle and transit friendly. These objectives parallel the objectives described above from the "Objectives for the Northeast Waterfront subarea" on pages 4-21 through 2-22 of the America's Cup DEIR. **343** [PP-3c] cont.

Four major community organizations—representing thousands of local residents, small businesses and property owners—became the primary sponsors/organizers of "*A Community Vision for the Northeast Waterfront*" and hired Asian Neighborhood Design to assist them in developing it. These organizations included: *Friends of Golden Gateway; Golden Gateway Tenants Association; Telegraph Hill Dwellers and the Barbary Coast Neighborhood Association*. Stakeholders from Chinatown, Russian Hill, Nob Hill, Fisherman's Wharf and other neighborhoods also participated.

The 8 Washington and America's Cup DEIRs fail to even mention this alternative plan created by numerous community stakeholders with AND's help. Both DEIRs need to describe this study, how it differs from Planning's NES and include it in the final EIR.

We are attaching a copy of *A Community Vision for San Francisco's Northeast Waterfront* to these comments and ask that it be included in the final America's Cup EIR so that readers and public officials can gauge for themselves if this community plan was more successful than the Planning Department's *Northeast Embarcadero Study* (NES) in "fostering consensus on the future of Seawall Lot 351 and at other seawall lot properties along the northeast waterfront" as well as "drawing San Franciscans to the water's edge" and reconnecting The Embarcadero to Chinatown, North Beach, Telegraph Hill, Russian Hill and other adjacent neighborhoods.

Environmental Council Comments
America's Cup DEIR Case No. 2010.0493E
Revised August 29, 2011

Some of the specific recommendations from the AND plan that address the America's Cup DEIR's "Objectives for the Northeast Waterfront subarea" re: connecting North Beach and Chinatown to the waterfront and "encouraging new activities to draw San Franciscans to the water's edge" (DEIR pages 4-21 to 4-22) include:

1. Improving Washington Street as a pedestrian, bicycle and transit friendly corridor from Chinatown to The Embarcadero by:

d creating better pedestrian connections across Columbus at Washington;
e. creating parklets, sidewalk bulb-outs and food trucks/carts between Davis and Battery Street on the north (sunny) side of the street to enliven it;
f creating new corner retail by cutting shallow retail bays into the parking garage on north side between Davis & Battery at each corner and the middle.

2. Improving Broadway as a pedestrian, bicycle and transit friendly corridor from Montgomery to The Embarcadero by:

a. extending the recently completed Upper Broadway improvements (new street lights, benches, artwork and art installations) along Lower Broadway to The Embarcadero;

b. developing a proto-type shuttle service from upper Broadway to The Embarcadero, possibly using motorized cable cars. **344** [PP-3c]

3. Improving transit connections from Chinatown and North Beach to The Embarcadero and northeast waterfront by:

a. reestablishing #10 and #12 MUNI bus lines all the way to Embarcadero, and/or

b. creating a new line that runs more or less along current the 82X line but loops into Chinatown as well to replace lost service of #10 and infill transit access to east side Telegraph Hill;

c. extending the Chinatown parking shuttle bus another block to The Embarcadero.

4. Making more efficient use of existing garages, eliminating need new ones by:

a. coordinating validation stickers, hours, parking apps and signage among the 15 parking garages included in the AND study to increase parking capacity;

b. removing 'temporary' berm in front of Four Embarcadero preventing people standing in front of Ferry Bldg. from seeing closest garage (Four Embarcadero);

c. working with merchants and garages in Fisherman's Wharf on similar efforts.

5. Preserving and enhancing existing open space and active recreation facilities.

6. Supporting revenue generating uses on Seawall Lots that comply with Public

Trust restrictions where real consensus exists vs. current plan for 8 Washington/ SWL 351 that is opposed by dozens of organizations and hundreds of individuals.

All of these recommendations could begin implementation in the next year, in preparation for the July/August World Series races in 2012. ***The DEIR must analyze each one and state what next steps are necessary to implement them.***

344 [PP-3c] cont.

COM-180

Environmental Council Comments
America's Cup DEIR Case No. 2010.0493E
Revised August 29, 2011

18. CHAPTER 7 - ALTERNATIVES

COMMENT AA-1: ALTERNATIVES ANALYSIS IS ARTIFICIALLY LIMITED BY A SERIES OF INAPPROPRIATE ASSUMPTIONS.

The range of alternatives for the cruise terminal is artificially limited by questionable findings that potentially significant impacts to cultural resources, transportation, wind and biology (bird strikes) could be mitigated to "less than significant." The impacts are inadequately considered and the mitigation measures are of questionable effect. Clearly other reasonable design alternatives are feasible that would eliminate these impacts. They must be considered in the EIR.

The range of alternatives is improperly constrained by the assumption that the Host Agreement is an obligation of the City, even though no CEQA review of the Agreement has yet been conducted.

The range of reasonable and feasible alternatives is improperly constrained by the stated Project Objectives.

345 [AL-1, AL-3]

COMMENT AA-2: ALTERNATIVES ANALYSIS FAILS TO CONSIDERABLE A REASONABLE RANGE OF ALTERNATIVES.

Consideration of the cruise terminal and the AC34 events jointly as dependent projects in the PDEIR is confusing and forecloses an adequate review of alternatives for either project.

The alternatives analysis must address the reasonably foreseeable event that the America's Cup title is retained and future races continue to be hosted in San Francisco.

The DEIR fails to analyze a proper range of cruise terminal/NE Wharf Plaza alternatives separately from the America's Cup events. Consequently, reasonably feasible alternatives are precluded or improperly rejected. In addition to consideration of a cruise terminal design which would retain the ends of Piers 29 and 31, a design should be considered that would include the demolition of Pier 27 and the restoration of the end of Pier 29 – with construction of a new cruise terminal parallel to Pier 29 similar to a design previously proposed by the Mill Corporation for the site, which would be much more compatible with the character of the Historic District.

The PDEIR fails to consider reasonably feasible alternatives to the to AC34's proposal to construct a single enormous viewing platform at the end of Piers 27-31, the future public benefit of which is questionable and has never been in any Port or BCDC plans. The EIR should consider alternatives to this single viewing location that would leave a lasting legacy for the people of San Francisco by considering alternatives for viewing that would result in the creation of beneficial open space that would remain long after the AC34 races are completed.

346 [AL-1, AL-3, AL-4]

As suggested in scoping comments, a prime viewing area for AC34 could be created by converting the triangle parking lot at Fisherman's Wharf into open space in furtherance of existing plans for the creation of public open space. This alternative would provide the lasting legacy of public open space to be used by thousands of residents and visitors.

Also as suggested in scoping comments is the use of the space behind the Ferry Building as another viewing area for AC34 requiring the elimination of the restaurant building, an eyesore that currently blocks views of the bay from an area utilized by thousands of people. This alternative was summarily rejected by the PDEIR in spite of its potential for extraordinary long-term public benefits.

Such alternative viewing areas could reduce or eliminate the size of the viewing area at the end of Piers 27-31 allowing much more flexibility in the design of the Cruise Terminal and NE Wharf Plaza.

346 [AL-1, AL-3, AL-4] cont.

COMMENT AA-3: ALTERNATIVES ANALYSIS FAILS TO CONSIDER A CODE COMPLIANT ALTERNATIVE

Both the AC34 event and the long-term cruise terminal development rely on changes to existing plans and policies, in particular the BCDC Special Area Plan restrictions on fill removal being located in the same water basin as new fill. In addition, both the AC34 event and the long-term development impact the BCDC Special Area Plan requirement for Open Water Basins.

347 [AL-1, AL-3]

Environmental Council Comments
America's Cup DEIR Case No. 2010.0493E
Revised August 29, 2011

COMMENTERS (PARTIAL LIST)

Jennifer Clary is a Water Policy Analyst for Clean Water Action, has served on a variety of Advisory Committees for the Port of San Francisco and the San Francisco Public Utilities Commission, and participated in the negotiations that resulted in the Bay Conservation and Development Commission's San Francisco Waterfront Special Area Plan in 2000.

Steven Krefting, Convenor of the Presidio Environmental Council, is an environmental advocate with expertise in ecology and terrestrial habitat issues. While Associate Regional Director of National Parks Conservation Association's Pacific Regional office, he analyzed park planning documents and drafted official comments and testimony, He worked in particular on the Yosemite NP General Management Plan and on Presidio planning issues.

Brad Paul has over thirty-five years experience in housing policy and development in San Francisco including serving as Deputy Mayor for Housing under Mayor Art Agnos

Nancy Shanahan is a land use estate attorney and former Western Regional Counsel for the National Trust for Historic Preservation. She was among the "Historic Preservation Experts Consulted" in the preparation of the Port's Embarcadero National Register Historic District.

Teri Shore, Program Director at Turtle Island Restoration Network is an environmental advocate with expertise in air quality, marine vessel emissions, marine species conservation and relevant laws and regulations. Shore gained expertise on marine emissions while lobbying for new regulations to require cleaner fuels and engines on ferries and other commercial harborcraft, cruise ships and cargo vessels at the local, state and international level for Friends of the Earth in San Francisco (formerly Bluewater Network). Shore served on the Port of San Francisco Cruise Ship Terminal Environmental Advisory Committee that developed standards to protect the Bay Area's air and water quality from cruise ships, which culminated in the shorepower installation at Pier 27 in advance of state regulation. Shore also worked at the local and state level to help win strong new state standards for marine fuels and engines on the Bay. She was also a negotiator at the International Maritime Organization for stronger global marine fuel and engine standards that are now being implemented along the West coast of the U.S. More recently, Shore has advocated for establishing critical habitat for endangered leatherback sea turtles along the West Coast of the U.S. and preventing large new commercial fisheries that accidentally capture endangered marine life from expanding along California's coast.

Peter Straus is a retired SF Municipal Transportation Agency MUNI Service Planning Director with a PhD and Masters from Northwestern University in Transportation and City Planning

Ian Wren is the Staff Scientist at San Francisco Baykeeper. Ian studied biology and ecology at UC Berkeley and holds an M.S. in Hydrology and Sustainable Development from Imperial College, London. He currently focuses on water quality issues as a research and advocacy specialist for Baykeeper. Ian

spent six years in environmental consultancy as a Habitat Restoration Specialist in Southern California and a Hydrologist in London, UK. Prior to this, he served as a staff scientist in molecular labs at UC Berkeley and UCLA.

Arc Ecology

Environment, Economy, Society, & Security

August 25, 2011

Board of Directors

Anne Griffiths Esq
Secretary
Chris Jackson
Treasurer
John M Lendvay PhD
President
Gus Newport
Rachel Russell
Linda Shaffer PhD

Saul Bloom
Executive Director & CEO
Kevin Casey
Controller

Ms Joy Navarrete
Environmental Review Officer
San Francisco Planning Dept.
1650 Mission St., Suite 400
San Francisco, CA 94103
By Fax: 415 558 6409
By e-mail: joy.navarrete@sfgov.org

Comments of Arc Ecology on the 34th Americas Cup and James R Herman Cruise Terminal and Northeast Wharf Plaza Draft Environmental Impact Report

Mr. Wycko,

On behalf of Arc Ecology, I would like to express my appreciation for this opportunity to comment on the 34th Americas Cup and James R Herman Cruise Terminal and Northeast Wharf Plaza Draft Environmental Impact Report.

Comment 1: Arc Ecology is disappointed with the overall quality of the 34th Americas Cup and James R Herman Cruise Terminal and Northeast Wharf Plaza Draft Environmental Impact Report. We support and incorporates by reference the commentary of our colleagues in the Americas Cup Environmental Council.

Focus of our review: For the purposes of efficiency Arc Ecology will focus its commentary on Hazards and Hazardous Materials as they appear and do not appear in Volume 2, Section 5.17 Hazards and Hazardous Materials; Volume 1, Summary Tables 5.17 HZ-1 through C-HZ; and Volume 3 Appendices. **01** [GEN-4]

Comment 2: The DEIR is deficient because it does not provide an Accurate, Finite or Stable description regarding Hazards and Hazardous Materials.

Comment 2a: It would be helpful to have tables showing the buildings, piers, and other structures contaminated with a form of hazardous substances such as those provided for air quality in DEIR Volume 3 Appendix AQ Section 3. The EIR should present the reader with a means of gauging the degree to which these substances impact the project and the scope of activities required to mitigate their impacts. Given the age, materials, and condition of the structures and properties intended for use within the project, it is likely that required remedial work/ hazardous materials abatement will become a major facet of this project. As such the DEIR does not present an Accurate, Finite or Stable description as the requirements of this abatement are likely to expand significantly once underway. **02** [HZ-1b]

1331 Evans Street, San Francisco, California 94124, United States of America
Phone: 415.643.1190 | Fax: 415.643.1142 | Email: info@arcecology.org

Comment 2b: While summaries such as **5.17.1.3 Hazardous Building Materials within Project Area** are helpful;

> **5.17.1.3 Hazardous Building Materials within Project Area**
> Although many of the structures along the San Francisco waterfront could include hazardous building materials such as asbestos-containing materials and lead-based paint, only the Pier 27 shed, and Pier 27 Annex building, and Pier 29 shed are discussed in this section because they would be demolished or undergo major renovation for the America's Cup Village in 2013 and/or the James R. Herman Cruise Terminal and Northeast Wharf Plaza. A survey of these buildings in 1999 identified asbestos-containing materials and lead-based paint in each of these structures.8 Asbestos-containing materials were identified in the Pier 27 shed roofing (mastic and flashing), heating, ventilation and air conditioning system gaskets, drywall joint compound, and floor tile and mastic; in the Pier 27 Annex building floor tile and sheet flooring on the first and second floors, roofing cement, pipe insulation, and paint of the bituminous insulation covering on the roof; and in the Pier 29 shed felt on the parapet wall, roof flashing, sealant around the windows on the skylights, field patch, and roof patching mastic. Delaminated lead-based paint was identified on many of the building components of the Pier 27 shed, Pier 27 Annex building, and Pier 29 shed, with lead concentrations as high as 437,000 milligrams per kilogram. While some of the paint sampled during the 1999 survey would not be classified as lead-based paint because the concentration of lead does not exceed 5,000 milligrams per kilogram, all of the paint sampled could be classified as a hazardous waste based on total or soluble lead concentrations. The only other project site undergoing major renovation is Piers 30-32, which will undergo seismic upgrades to accommodate the AC34 team bases. The seismic upgrade would not disturb hazardous building materials. In addition, historic pilings along the waterfront are typically constructed of wood that has been treated with creosote and encased in concrete. Creosote-treated piles and/or structures, many of which may be submerged, are present at Pier 98; Piers 84 and 88; Pier 70; Pier 64; Rincon Point Open Water Basin; Wharves 6, 7, and 8; and adjacent to China Basin Channel.

02 [HZ-1b] cont.

A table such as this one excerpted from page 209 of Volume 3, Appendix AQ is easier to read and can be more informative.

Location	Activity/Components	Category	Truck Type (LT/MD/HVY)	Fuel type	Total one-way trips per day	Duration (days)	Total Idling hours per day
		Dump trucks	HHD	D	4	5	0 7
		pickups	LDT2	G	12	5	2 0
Pier 30-32	Demolition of bldg	Flatbed Truck	HHD	D	5	2	0 8
		Pickup Trucks	LDT2	G	12	5	2 0
		Flatbed Truck	MHD	D	2	5	0 3
Pier 80	Installation of floating docks/piles	Flatbed Truck	HHD	D	2	2	0 3
		Pickup Trucks	LDT2	G	12	2	2 0
		Flatbed Truck	MHD	D	2	2	0 3
Pier 80	Removal of floating docks/piles	Flatbed Truck	HHD	D	1	2	0 2
		6' Gas Flatbed	LDT2	G	8	60	1 3
		26' Bobtail Truck	HHD	D	8	60	1 3
Pier 80	Installation of team base	Flatbed Truck (HDT)	HHD	D	23	2	3 8
		Pickup Trucks	LDT2	G	12	3	2 0
		Flatbed Truck	MHD	D	2	3	0 3
AC Village	Installation of floating docks/piles	Flatbed Truck	HHD	D	2	2	0 3
		Pickup Trucks	LDT2	G	12	3	2 0
		Flatbed Truck	MHD	D	2	3	0 3
AC Village	Removal of floating docks/piles	Flatbed Truck	HHD	D	1	2	0.2
Fort Mason	Installation of Piles to Support Communication Barge	Flatbed Truck	HHD	D	2	2	0 3

COM-183

In the summary presented in 5.17.13 the action regarding Pier 30-32 is characterized as "The only other project site undergoing major renovation is Piers 30-32, which will undergo seismic upgrades to accommodate the AC34 team bases." Whereas in the table from Appendix 3, at least one action contemplated for Pier 30-32 includes the demolition of a building which in turn will presumably produce substantial volumes of hazardous materials and waste none of which is quantified in this DEIR.

Furthermore, neither the action of removing the floating docks/piles for Pier 80 and in the AC Village area is mentioned in the excerpted section 5.17.13 increasing the difficulty the reader has understanding the scope and requirements of the project.

Arc Ecology is therefore concerned that the reliance on summaries and generalized commentary about the hazardous materials and abatement requirements of the project undermines the DEIR and fails in meeting the test of providing an Accurate, Finite and Stable description regarding Hazards and Hazardous Materials. Indeed it appears that this manner of description creates a matter of fact impression that minimizes the scope of the abatement requirement once again running afoul of the test of providing an Accurate, Finite and Stable description.

02 [HZ-1b] cont.

Comment 2 recommendation: Arc Ecology strongly suggests the elimination or minimization of the "book report style" summary aspects of the DEIR in favor of clear tables specifying the site, possible hazardous issue associated, possible mitigation required, including some estimate of quantifiable material to be removed, and the applicable federal, state, and local regulations.

Comment 3: As a corollary to the above request for tables, Arc Ecology believes the entire review would be stronger if the City incorporated maps and pictures in the same sections accompanying the tables so as to provide a clearer more finite understanding and fuller disclosure of the location of the hazards and hazardous materials mitigation activities.

Comment 4: Arc Ecology is on the other hand pleased to see the policy in Mitigation Measure M-HZ-3 that - *In the case where the presence of PCBs in the light ballast cannot be verified, the light ballast shall be assumed to contain PCBs and handled and disposed of as such, according to applicable laws and regulations.*

Comment 4 recommendation: It would nevertheless be better to see not only this general policy but all others like it incorporated into a table, such as the one identified **in Comment 2 recommendation,** specifically identifying the project locations where this policy might be applicable, and the likely actions required to meet the policies requirements.

03 [HZ-1e]

Comment 5: The DEIR cannot be a Project DEIR because It Fails To Present Project-Level Disclosure or Analysis. The Department of Planning must significantly improve disclosure or approach this as a programmatic level environmental impact report.

> **Comment 5a:** The DEIR Cannot Be **Considered a Project Level DEIR** Because a Significant **Amount of** Information **not currently available must be incorporated for it to meet that test of disclosure** for Public Review and Comment. The DEIR mentions the preparation of a plan to address these needs but provides no timeline nor does it specify how public input will be addressed after the EIR process is completed.
>
> **Comment 5b:** Below are examples of the Hazardous and Hazardous Materials impacts identified within the DEIR for which documents detailing plans to address these impacts are not yet ready:

04 [HZ-4]

Comment 5b.1 Relocation of Tenants that Use Hazardous Materials
As discussed in Chapter 3, Project Description, implementation of the AC34 events would require the relocation of a number of tenants in piers along the northeast waterfront. Because some of the tenants, including existing maritime tenants, may use hazardous materials, the public and environment could be exposed to hazardous materials during closure and transport of hazardous materials handling facilities. However, facilities undergoing closure would be required to comply with Article 21 of the San Francisco Health Code to reduce the potential for hazardous materials to be left in place. Compliance would include preparation and IMPLEMENTATION OF A CLOSURE PLAN addressing the need for further maintenance of the closed facility; methods to ensure that the threat to public health and the environment from residual hazardous materials is eliminated; and methods to ensure that hazardous materials used at the facility are appropriately removed, disposed of, neutralized, or reused. The closure plan would be submitted to the DPH for approval and, upon submittal, the DPH may add additional requirements for closure. Where a release is discovered, investigation and cleanup could be required under the oversight of the Local Oversight Program. In this case, a corrective action plan may be required and the DPH would determine the adequacy of the plan and may also request state or federal agency review. The DPH findings would be published for public review.

With implementation of these legal requirements, impacts related to a release of hazardous materials during facility closure would be less than significant.

Comment 5b.2 Use of Hazardous Materials During AC34 Events–Event and Spectator Vessels
In addition, as part of the proposed project, the project sponsor is preparing a WASTE MANAGEMENT PLAN that would include a discussion of the potential for the discard of wastes such as electronic devices, batteries, used oil, paints, caulk, adhesives, and solvents into the Bay during boat operation, berthing, or mooring.

In addition, all boats 26 feet or longer must display an oily waste discharge placard in the engine compartment or near fuel pumping stations that notifies passengers and crew about discharge restrictions. In addition, as part of the proposed project, the project sponsor is preparing a WASTE MANAGEMENT PLAN that would include a discussion of the potential for the discard of wastes such as electronic devices, batteries, used oil, paints, caulk, adhesives, and solvents into the Bay during boat operation, berthing, or mooring. Despite regulations regarding operations of vessels within U.S. waters and preparation of a Waste Management Plan as part of the AC34 events, impacts related to a release of hazardous materials from a race-related or spectator vessel would be *potentially significant* because many boaters, including international visiting vessels, may not be familiar with U.S. regulations and there would also be an increased burden of enforcement due to the increased number of boats during the AC34 events.

Impact HZ-2: Construction and operation of the America's Cup facilities and events would not create a significant hazard to the public or the environment as a result of a release of hazardous materials in soil, or location of project activities on a government list of hazardous materials sites. (Less than Significant)

Comment 5b.3 Increased burden of enforcement due to the increased number of boats during the AC34 events. Implementation of Mitigation Measure M-BI-12 (Visiting Mariners Information) would require the project sponsor to prepare, as part of the WATER AND TRAFFIC PLAN, information to educate boaters and marinas about environmentally sound boating practices and

04 [HZ-4] cont.

access to environmental services to ensure employment of clean boating habits. The plan would also specify procedures for dissemination of this information to visiting boaters prior to or upon arrival to San Francisco Bay for the AC34 2012 and 2013 races.

With implementation of Mitigation Measure M-BI-12, hazardous materials impacts related to a release of hazardous materials from a race-related or spectator vessel would be less than significant.

Comment 5b.4 However, construction work at the team bases at Piers 30-32 and Pier 80 and the America's Cup Village at Piers 27-29 in 2013) would be conducted in areas that are bayward of the historic high tide line. If construction at any of these sites disturbed 50 cubic yards or more of soil, the project sponsor would be required to implement Article 22A of the San Francisco Health Code. In accordance with this article, the project sponsor would prepare a site history report, conduct soils testing, prepare a soils analysis report and if appropriate, prepare a SITE MITIGATION PLAN and certification report. If the presence of hazardous materials were indicated, a site health and safety plan would also be required. The soil analysis report would be submitted to the DPH, and if required on the basis of the soil analysis report, a site mitigation plan would be prepared to (1) assess potential environmental and health and safety risks; (2) recommend cleanup levels and mitigation measures, if any are necessary, that would be protective of workers and visitors to the property; (3) recommend measures to mitigate the risks identified; (4) identify appropriate waste disposal and handling requirements; and (5) present criteria for onsite reuse of soil. If required, the recommended measures would be completed during construction. Upon completion, a certification report would be required stating that all mitigation measures recommended in the site mitigation report have been completed and that completion of the mitigation measures has been verified through follow-up soil sampling and analysis, if required. Further, the DPH could require implementation of these same measures for other sites that are not located bayward of the high tide line if contamination is suspected.

These plans would specify how unsafe exposure to hazardous materials left in place would be prevented, as well as safe procedures for handling hazardous materials should site disturbance be required. The DPH could require a deed notice, and the requirements of these plans would transfer to the new property owners in the event that the property was sold.

Impact HZ-2: Construction and operation of the America's Cup facilities and events would not create a significant hazard to the public or the environment as a result of a release of hazardous materials in soil, or location of project activities on a government list of hazardous materials sites. (Less than Significant)

Comment 5b.5 Nevertheless, as described in Chapter 3, Project Description, the AC34 events would include implementation of a PUBLIC SAFETY PLAN that would address all safety and security measures (including emergency and rescue services) to protect the AC34 sponsors, staff, participants, the media, guests, spectator vessels, and the public. The plan would include specific measures to ensure a high level of security within and around all elements of the AC34 venues and within and around sensitive locations. Consequently, the proposed project would not interfere with emergency response or emergency evacuation plans.

Impact HZ-4: The America's Cup events and facilities would not expose people or structures to a significant risk of loss, injury, or death involving fires, nor would it impair implementation of or

04 [HZ-4] cont.

physically interfere with and adopted emergency response plan or emergency evacuation plan (Less than Significant)

Comment 5b.6 Use of Hazardous Materials During AC34 Events – Team Bases
During the AC34 events, the team bases constructed on Piers 30-32 and Pier 80 would be used for boat maintenance and repair. Additionally, boat fabrication and assembly would occur at Pier 80. Boat repair and maintenance facilities typically use and store a wide range of chemicals and other materials, many of which may be hazardous, including fuels, oils, alkaline and acidic solutions, cleaning solvents, disinfectants, detergents, degreasers, rust inhibitors, and antifouling paints. If accidently released, these materials could affect Bay water quality because the team bases would be located on piers, directly above the Bay.

Comment 5b.7 To the extent feasible, the project sponsor WOULD IMPLEMENT PRACTICES AT THE TEAM BASES AT BOTH LOCATIONS AND THE FABRICATION AND ASSEMBLY FACILITIES at Pier 80 to promote recycling of materials and use of environmentally friendly products and procedures, such as limiting the use of diesel powered equipment, using equipment powered with electricity or alternative fuels rather than diesel, and using environmentally friendly alternatives to industrial solvents and other maintenance chemicals. The use of hazardous materials at the team bases at Pier 80 and Piers 30-32 would be subject to the City's hazardous materials handling requirements specified in Article 21 of the San Francisco Health Code (discussed in the Section 5.17.2.3, Local Regulations). In accordance with Article 21, any facility that handles hazardous materials in excess of threshold quantities would be required to obtain a Certificate of Registration from the DPH and to implement an HMBP that includes inventories, a program for reducing the use of hazardous materials and generation of hazardous wastes, site layouts, a program and implementation plan for training all new employees and annual training for all employees, and emergency response procedures and plans. Similarly, the project sponsor would be required to comply with the City's hazardous waste handling requirements specified in Health Code Article 22.

Comment 5b.8 In addition, the Port of San Francisco would require a Team Base Operations Manual. As described in Chapter 3, the TEAM BASE OPERATIONS MANUAL would set forth specifications and standards for boat building, maintenance, and cleaning practices. The manual would incorporate regulatory and permitting requirements of Articles 21 and 22 of the San Francisco Health Code and also include environmental and safety requirements, standards and best management practices that would be applicable to all proposed industrial-related practices at the team bases, including but not limited to boat fabrication and assembly, equipment and materials use and storage, and maintenance and cleaning activities. The Team Base Operations Manual would also contain a list of all applicable environmental and safety permits required for AC34.

The **DEIR** Cannot Be **Considered a Project Level DEIR** Because **a** Significant **Amount of** Information **not currently available must be incorporated for it to meet that test of disclosure** for Public Review and Comment. The DEIR mentions the preparation of a plan to address these needs but provides no timeline nor does it specify how public input will be addressed after the EIR process is completed.

04 [HZ-4] cont.

O-ArcEco2

Comment 5b.8 Impact HZ-3 Construction and operation of the America's Cup facilities and events could create a significant hazard to the public or the environment as a result of a release of hazardous building materials in structures that would be demolished and creosote-treated pilings and structures that would be removed. (Less than Significant with Mitigation)

Because of the limited grading and excavation that is required for the project, and implementation of the requirements of Article 22A of the San Francisco Health Code for any project located bayward of the historic high tide line that involves excavation of 50 cubic yards or more of soil, impacts related to the potential to encounter hazardous materials in the soil would be *less than significant*.

Mitigation:

Comment 5 Issues Summary: Each of the eight items above contain reports, processes, and plans which are purported to mitigate the impacts of Hazards and Hazardous Materials impacts but have not yet been produced. Therefore the accuracy of the claim of mitigation cannot be tested. As a consequence:

- The DEIR cannot be considered a project level DEIR because a significant amount of information not currently available and must be incorporated for it to meet that test of disclosure needed for that category of environmental impact report; and
- The lack of this information compromises the claims made in Volume 2, Section 5.17 Hazards and Hazardous Materials; Volume 1, Summary Tables 5.17 HZ-1 through C-HZ.

While Arc Ecology may support in principle the concepts articulated in some of the above sections of the DEIR, we cannot in practice consider them as sufficient for review.

The concern the manner in which these mitigations are presented raises is somewhat akin to the relationship of "O" rings to the former Space Shuttle program. Having a commitment to using "O" rings is all well and good, unfortunately as we learned with Challenger, it is not having them that matters: it is whether they in-fact work. The DEIR provides no way to determine whether these plans will be adequate to managing the hazards and hazardous materials whose impacts they purport to mitigate.

Comment 5 recommendation: Either change the characterization of the DEIR to a program level review, or provide some carve out for these mitigations yet to be developed that will allow for CEQA level review when they are finally produced.

04 [HZ-4] cont.

Comment 6: The EIR provides no form or recommendation to future health risk assessment with regard to project development.

In many cases the demolition and construction requirements of both the Cruise Terminal and the America's Cup could involve significant and apparently possibly unknown pollutant hazards. The lack of reference to a health risk assessment – other than one for air quality, is disturbing.

05 [HZ-1c, HZ-1d]

Summary of Comments

While Arc Ecology would like to find reason for supporting this EIR we find that it like all of the recently produced EIR's in San Francisco we have reviewed, that far too much is taken for granted and far too little of substance is offered. The following EIR excerpt exemplifies the problem:

06 [HZ-4]

O-ArcEco2

"Because of the limited grading and excavation that is required for the project, and implementation of the requirements of Article 22A of the San Francisco Health Code for any project located bayward of the historic high tide line that involves excavation of 50 cubic yards or more of soil, impacts related to the potential to encounter hazardous materials in the soil would be *less than significant*.
Mitigation: Not required"

06 [HZ-4] cont.

This is an unsupportable statement. The requirement to comply with Article 22A simply means that the project proponent will have to sample the soil, develop a remedial plan for whatever pollutants above action level are found, and then implement their plan. Fifty cubic yards of excavation is quite small. A single dump truck can carry as much as 30 cubic yards. Petroleum spills could require hundreds of dump trucks. All the implementation of Article 22A would do is ensure a responsible plan for addressing the hazardous material is created, it would not ensure that "impacts related to the potential to encounter hazardous materials in the soil would be *less than significant* ." Everything else, from the transportation plan, health risk assessment (depending upon the pollutant and OSHA compliance determines whether the encounter is less than significant"

Thank you for the opportunity to comment on the 34th Americas Cup and James R Herman Cruise Terminal and Northeast Wharf Plaza Draft Environmental Impact Report.

Saul Bloom

Saul Bloom
For Arc Ecology

COM-186

O-CCDC

From: Deland Chan
To: Edwin.Lee@sfgov.org
Cc: johanna.partin@sfgov.org; Jennifer.Matz@sfgov.org; adam.vandewater@sfgov.org; ed.reiskin@sfgov.org; peter.albert@sfmta.com; john.rahaim@sfgov.org; Joy.Navarrete@sfgov.org
Subject: Chinatown CDC's statement re: connecting America's Cup to Chinatown
Date: 08/23/2011 03:05 PM

August 23, 2011

Subject: AMERICA'S CUP FOR ALL: Investing in Chinatown's Immigrant Community by Providing Strong Linkages between the 34th America's Cup and Surrounding Neighborhoods through Public Transit, Physical Improvements and Economic Development Policies

Dear Mayor Lee:

On behalf of the Chinatown Community Development Center, we thank you for your strong leadership in supporting the City of San Francisco's bid to host the 34th America's Cup (AC34). This event is expected to generate over $1.4B in direct spending, which has tremendous implications on investment opportunities for surrounding neighborhoods, such as Chinatown. However, if there is no plan in place to consider adjacent neighborhoods like Chinatown, then America's Cup would be an event for only the select elite at the expense of the public realm and "bypass" this low-income immigrant community. We at Chinatown CDC strongly urge the City to consider specific measures to protect and create investment opportunities for Chinatown. **This letter offers recommendations to guide the City to take advantage of this unique opportunity to strengthen benefits and investment in Chinatown while minimizing negative impacts through funding sources such as tax revenues from the America's Cup infrastructure financing districts (IFDs).** The three areas that we cover are comprehensive in scope and include proposals for improved public transit to support the increased number of transit riders around the Northeast waterfront and adjacent neighborhoods, create physical linkages from the waterfront to Chinatown, and help visitors navigate the neighborhoods through economic development tools.

01 [GEN-5]

-
-

PUBLIC TRANSIT

-

According to the America's Cup People Plan and Environmental Impact Report, the already overburdened 30 and 45-MUNI bus lines are targeted to serve visitors as the main source of transportation around the Waterfront and surrounding areas. **Given that Chinatown is a dense, low-income, transit-dependent community, the neighborhood's vital transportation lifelines should not be expected to shoulder the burden of accommodating AC34 tourists without added capacity to meet the projected transit demand.** In addition, adding tourists on already over-capacity buses traveling along Stockton Street, the city's most heavily utilized transit corridor, presents a serious public safety concern.

02 [TR-4a]

To mitigate the potential degradation and loss of service to local residents as a result of AC34, we are requesting the following transit service mitigations for the Stockton Street corridor:

1) The proposed 30L bus traveling northbound on Kearny Street needs more stops in Chinatown to increase transit service during the AC34 events, rather than bypassing the neighborhood. **We would like to see three additional stops on the 30L at California and Sacramento; Clay and Washington; and Broadway and Columbus.**

2) The City should invest in long-lasting infrastructure and permanent transit linkages between the 4th Street/Caltrain Station, Chinatown, Telegraph Hill, and the waterfront during and after the AC34 events. To achieve this, **SFMTA should expand the 82X Levi Plaza Express that runs only on weekday peak periods and create a new line: the "80AX" that will run around the clock and weekends.** This line will follow the current 82X route from the Caltrain station to Sacramento Street, but will continue traveling west along Sacramento to Kearny Street, make a right on Broadway, and travel along Sansome to the waterfront before heading south on Battery Street.

3) Buses traveling along Stockton Street in Chinatown are already operating at over-capacity just carrying local residents thus, it is a public safety concern for the same bus lines to handle the surge of tourists coming to San Francisco to view the AC34 events. The AC34 presents a pivotal moment to introduce durable improvements to speed up transit service along this corridor:

   - As the SFMTA's Transit Effectiveness Project (TEP) recommends for Stockton Street, we would like to see **all-door boarding and proof-of-payment system** for all buses traveling on Stockton Street (8X, 8AX, 8BX, 30, 45) from Stockton/Columbus Avenue to Market Street.

   - Create **a short Stockton Street shuttle loop** operating on diesel buses that will travel between Broadway/Stockton and Market Street during peak periods and AC34 events. The AC34 events will coincide with construction of the Central Subway Union Square and Moscone Stations, which will require rerouting of the southbound 30/45/8X buses for several years starting in 2012. The rerouting will divert buses to Mason Street and Fifth Street, resulting in an overall lengthier trip due to the route, as well as slower travel time due to the automobile traffic diverted from the construction site along Fourth Street. To avoid further loss of transit service to Chinatown, the City should create a short shuttle loop.

02 [TR-4a] cont.

PHYSICAL IMPROVEMENTS

Chinatown is the densest residential neighborhood west of Manhattan and is primarily a low-income neighborhood of Chinese immigrants. 83% of Chinatown households do not own a car, and

03 [GEN-5]

31% rely on public transit. With a median household income of $17,630, about 31% of households live in poverty. The neighborhood is also sorely lacking in open space and is the only high needs neighborhood in San Francisco has not received a new city park since 1987. We believe that the City should ensure that America's Cup is an event that all San Franciscans can enjoy, regardless of wealth, particularly the disadvantaged communities located adjacent to the AC34 venue locations.

The following mitigations will ensure that the City provides physical improvements and policies to link the waterfront to Chinatown:

1) AC34 should encourage Chinatown residents to leave their dense and congested neighborhoods to enjoy the events. We anticipate that many residents will walk or take public transit. Therefore, Broadway—which provides one of the flattest foot routes from Chinatown to the waterfront—should be prioritized for immediate pedestrian improvements.

   In 1998, the City approved the Broadway Envisioning Plan that provided a community vision to improve pedestrian safety conditions along Broadway from Columbus Avenue to the Embarcadero. Phases I and II of the Broadway Streetscape Project were completed in 2005 and 2008 with corner bulb-outs, landscaping and greenery, pedestrian scale lighting, and public art.

   The SF Planning Department and Chinatown CDC are currently leading the **Chinatown Broadway Street Design** to develop a community vision for Grant/Columbus Avenue to the Broadway Tunnel. By early 2012, the City will have produced 30% construction drawings for this stretch of Broadway. **We ask the City expedite and implement this community vision through capital improvements funds for the enjoyment of both residents and tourists in preparation for AC34.**

2) To encourage equity and ensure that Chinatown youth can enjoy recreational opportunities outside of their neighborhood and have the opportunity to attend the America's Cup events without financial hardship, **the City should provide free monthly transit passes to qualifying low-income Chinatown youth (distributed through community-based organizations).**

3) As the City is preparing to roll out its **bicycle-sharing program**, Chinatown should see tangible benefits from this program, especially with the proposed bike sharing area being located within the community along Grant Avenue and Broadway. We recommend the following mitigations:

   - Provide free/heavily subsidized usage for Chinatown residents living within 1/4 mile of a bike share station.

   - Provide sidewalk and roadway improvements along Grant Avenue, which is already narrow and is unable to accommodate existing pedestrian volume and bike rental pods without significant streetscape redesign. Chinatown CDC has many

03 [GEN-5] cont.

recommendations for pedestrian improvements for Grant Avenue in the Chinatown Pedestrian Safety Plan.

-
-
-

ECONOMIC DEVELOPMENT

Small businesses in Chinatown provide critical services and attractions for Chinatown residents, the broader Chinese community throughout the Bay Area, and tourists. **America's Cup can support these family-owned businesses by literally putting them on the map so visitors attending the events will know what Chinatown can offer in terms of history, shopping, food, and culture.** Furthermore, these economic development strategies should be culturally and linguistically sensitive to the fact that the Republic of China will dispatch a team for the AC34 event; thus San Francisco will become an attractive destination for overseas Chinese tourists. **The City must ensure that wayfinding signage is trilingual (English, Chinese, and Spanish) and that the ethnic media is properly engaged to maximize exposure to the event**. We suggest the City work with and engage community-based organizations that have strong relationships with the Chinese media and extensive outreach experience within the Chinese community. To maximize economic development benefits, we propose the following recommendations:

- Provide trilingual (English, Chinese, and Spanish) wayfinding signage along the America's Cup event locations, the waterfront, and Van Ness to direct tourists to Chinatown.

- **Create an information booth located at Portsmouth Square on Kearny Street** to distribute tourism materials and serve as official Clipper Card kiosk to ease the burden in requests from the two existing San Francisco Clipper Customer Service Centers. Kearny Street is the ideal location for this kiosk, as it will be located convenient to the 30L and 80AX bus, and allow a convenient drop-off point for tourists to pick up maps and explore Chinatown along the way.

- Integrate a map of Chinatown within all promotional destination materials, highlighting small businesses and cultural sites. Distribute this map on the AC34 website and tourism materials.

- Hire local Chinatown residents as bilingual ambassadors to promote walking, bicycling, and transit use by providing guidance to walking, bicycle, and transit access to events.

- Provide decorative banners along Broadway, Washington and Stockton Street to create a festive and beautiful shopping environment in Chinatown for tourists and local residents.

03 [GEN-5] cont.

While the Chinatown CDC is excited for the 34th America's Cup to take place in the City of San Francisco, **we are also eager to ensure that the events will provide adequate linkage to San Francisco's neighborhoods such that it will result in long-lasting infrastructure improvements and benefits even after the America's Cup.** We believe that our recommendations will enable the City to better maximize its investment and leave a positive legacy for our City. We welcome your

O-CCDC

response to this letter. I am available for further correspondence at (415) 984-1497 or by e-mail at dechan@chinatowncdc.org.

03 [GEN-5] cont.

Sincerely,
Deland Chan

Deland Chan
Senior Planner
Chinatown Community Development Center
667 Clay | San Francisco, CA 94111
(p) 415.984.1497 | (f) 415.986.1756

CC:
Johanna Partin, Office of Mayor Edwin Lee
Jennifer Matz and Adam Van de Water, MOWED
Edward Reiskin and Peter Albert, SFMTA
John Rahaim and Joy Navarrete, SF Planning

O-CFDG

From: crissyfielddog1@aol.com
To: joy.navarrete@sfgov.org
Subject: America's Cup DEIR comment
Date: 08/25/2011 01:03 PM

Crissy Field Dog Group

P.O. Box 475372 San Francisco, CA 94147-5372 Please Visit Our Website: www.crissyfielddog.org

August 25, 2011

VIA Email

Joy Navarrette
San Francisco Planning Department
1650 Mission Street
SF, CA 94103

Subject: America's Cup DEIR comments

Dear Ms. Navarrette,

On behalf of the Crissy Field Dog Group, I am providing some comments regarding the Draft Environmental Impact Report (EIR) for America's Cup.

While we recognize that the America's Cup will bring much needed revenue to the City of San Francisco for these boat racing events, we are very concerned about the impact at Crissy Field as a viewing area. The DEIR anticipates that approximately 77,000 people per day will view the race from Crissy Field. We think that the number will be much higher and that the events team should prepare for a much larger crowd and implement thorough crowd control measures. These measures should also insure that regular park visitors would be able to continue to have access in this recreation area.

In addition, we are very concerned that all of the natural areas, including but not limited to, the two Wildlife Protection Areas (WPAs), be managed in the best possible way. We encourage VERY close planning with National Park Service staff. We think that at a minimum, NPS rangers and other appropriate NPS personnel be staffed continuously around all of the post and cable areas too. This includes all of the berm areas. There will be a very high volume of foot traffic and a lot of alcohol consumption and we want to protect the promenade and grassy airfield areas too.

After each event, NPS personnel should monitor and record any and all damages at Crissy Field. After the final event, Crissy Field should be appropriately restored. We also advocate that photographs of the condition of Crissy Field be taken before and after each event to insure that it is being properly cleaned up. **01** [PD-5]

The America's Cup committee should pay all of the NPS' staff time. **02** [GEN-2]

Thank you for the opportunity to comment on this important Draft EIR.

Martha Walters
Chair; Crissy Field Dog Group

COM-189

O-CNPS

From: Bill Wycko
To: Joy Navarrete
Subject: Fw: 34th America's Cup DEIR
Date: 08/25/2011 03:58 PM

----- Forwarded by Bill Wycko/CTYPLN/SFGOV on 08/25/2011 03 58 PM -----

JLucas1099@aol.com

08/25/2011 03:55 PM

To Bill.Wycko@sfgov.org
cc
Subject 34th America's Cup DEIR

Bill Wycko, Environmental Review Officer August 25, 2011
San Francisco Planning Department
1650 Mission Street, Suite 400
San Francisco, CA 94103

RE: Draft Environmental Impact Report for the 34th America's Cup, James R. Herman Cruise Terminal and Northeast Wharf Plaza

Dear Bill Wycko,

In regards this Draft Environmental Impact Report on the 34th America's Cup I would wish to concur with the comments of Ruth Gravanis of the Yerba Buena Chapter of the California Native Plant Society.

Since my computer has just lost the extended comment letter that I was submitting, I will make this brief.

~ There needs to be detailed assurance of the best management practices that must be implemented to protect special species habitat such as serpentine grasslands of the Presidio and the Mission Blue Butterfly habitat of the Marin Headllands. If fiscal constraints limit regulatory agencies from being able to carry out this mandate then funds and alternative management capability need to be supplied by the promoters of the race. **01** [BIU-1]

~ The eelgrass beds, fishing shoals and subtidal wetlands need protection from speeding spectator boats and a regulatory agency needs to be designated to assure that this is adequately monitored. Would power boats prove dangerous for harbor **02** [BIM-3a]

seals, sea lions, otters, whales or dolphins that might stray into the Bay? 02 [BIM-3a] cont.

~ There does not seem to be sufficient interface with fishing interests of San Francisco Bay. Are there likely to be conflicts with the Fisherman's Wharf fleet's logistics or seasonal activities? 03 [BIM-6]

~ The dredging window of June 1 to November 30 needs to be adjusted to June 1 to September 1 in regards best managment practices for anadromous fish such as steelhead trout and coho salmon who have been noted passing through the Golden Gate by Labor Day, en route to streams in the South Bay.(Table 5.14-4). 04 [BIM-5a]

~ Please provide more precise criteria as to seasonal needs of species as to protective buffers for viability of habitat - such as for migratory birds of the Pacific Flyway, the California Clapper Rail and Caspian Terns in project area and race route. This would apply to protective measures needed to shield feeding shallows along shore (including Marin), bays and islands as well as for trees and wharf pilings that provide roosts or refugia. 05 [BIU-5b]

~ In regards invasive species, please include best management practices for sterilizing wharf construction and/or dredging equipment (before use on bayfront facilities) to attempt to eliminate introduction of invasives such as arundo, spartina and phragmites. Mandate posted bond money for eradication if invasives do occur. 06 [BIM-7]

~ The dredging option needs to be reviewed in that it triggers the construction of a permanent floating dock for large yachts that will obscure public views of San Francisco Bay and provide an attractive nuisance for harbor seals and sea lions. The dock may impair access to other wharfs by commercial ships and cruises.
Also the circulation of sediment throughout the Bay will annually even out and fill in any such dredged basin. 07 [BIM-5a]

~ Does the wave suppression feature associated with the floating dock need further clarification? Will this be a danger to harbor seals or sea lions? Will it function fully with strong currents both incoming and outgoing? 08 [BIM-3a]

~ Please evaluate limiting car use to residents and businesses (color code license plates) in viewing arc for race. Saturate Embarcadero, Marina, and Golden Gate National Park headlands with bus, train and trollies. 09 [TR-2f]

Thank you for consideration of these concerns.

O-CNPS

Libby Lucas, Conservation
CNPS Santa Clara Valley Chapter
174 Yerba Santa Ave., Los Altos, CA 94022

Community Partners of the Crissy Field Center

August 25, 2011

Bill Wycko
Environmental Review Officer
San Francisco Planning Department
1650 Mission Street, Suite 400
San Francisco, CA 94103

RE: 34th America's Cup - Draft Environmental Impact Report

Dear Mr. Wycko:

We are writing to express our dedication to Crissy Field and our strong conviction that the America's Cup event organizers must treat this national park with respect for its resources, public use, and community benefit. Crissy Field has become one of the most beloved open spaces in San Francisco and a tremendous asset to kids and families of all backgrounds and income levels. A destination for people from throughout the Bay Area, Crissy Field enhances our quality of life, serves as an outdoor classroom for schoolchildren and youth, and welcomes thousands of visitors from around the globe.

2011 marks the 10th anniversary of the community-supported restoration of Crissy Field. Between 1998 and 2001, 3,000 community members planted native plants in newly restored dunes and marshlands, and thousands of generous donors made gifts, large and small, totaling over $36 million, to restore and revitalize this park land. Today, over one million people visit and enjoy the site each year.

As part of the overall restoration of Crissy Field a decade ago, over $7 million in philanthropic funding was dedicated to establish the Crissy Field Center, which has since become a path-breaking urban environmental education center with a loyal base of community partners and philanthropic supporters.

Since its opening, the Center has reached almost 600,000 youth and family members, providing 1.3 million hours of high quality experiences through its innovative programing. With over 100 community partner organizations and a record of serving virtually every public school in San Francisco, the Crissy Field Center is a hub of environmental education, youth leadership, and community outreach. Recipient of numerous local, state, and national awards, the Center has become a national model for programs that create excellent national park experiences for diverse young people from urban communities.

As organizations committed to and benefiting from the Center's work, we write with our comments on the Draft Environmental Impact Report (DEIR) for the America's Cup events.

01 [RE-10]

COM-191

America's Cup clearly has the prestige and appeal to draw hundreds of thousands more people to Crissy Field. Record crowds, over 50 days or more, during two peak visitor seasons, have the potential to displace current park users, overwhelm daily operating systems, and stress or damage valuable park resources. Park use at this scale could also jeopardize the Crissy Field Center's ability to serve the young people who rely heavily on the park for their programs.

While we understand the importance of Crissy Field to the viewing of the America's Cup events, it is obvious that these events will disrupt the regular flow and use of an extremely popular park site. The DEIR does not present how these impacts are mitigated and what resources are being made available for those mitigations. Specifically, we ask for support to accomplish the following key objectives:

1. **Ensure Public Safety, Security and Access**: The National Park Service and the Golden Gate National Parks Conservancy will require funding and operating support to handle the additional crowds – maintenance, traffic control, and the protection of resources – while continuing services for current visitors.

2. **Protect Cherished Community Resources**: The America's Cup organizers need to secure the protection of the natural and cultural resources and the park infrastructure that were restored and created with the volunteer and philanthropic support of our communities. The wear and tear on Crissy Field could be significant, so funds need to be in place to ensure that Crissy Field emerges from the America's Cup events without severe damage and at standards that meet its pre-event conditions and public value.

3. **Preserve Vitality of Educational Programs**: The America's Cup will likely affect access to Crissy Field by community members and Crissy Field Center education programs. Ready access to the site is essential to these programs, which use Crissy Field as an outdoor classroom. We advocate that support be put in place to ensure ongoing access and program continuity.

We are hopeful that the America's Cup organizers will be committed to the responsible stewardship of Crissy Field and to the Crissy Field Center's vital role in connecting children and youth from our communities with their national parks. To do so will entail specifically identified mitigation measures and financial resources covering the impacts of the America's Cup landmark events, ideally enhancing the positive legacy of this treasured shoreline park.

Together we can safeguard the best possible outcome for the America's Cup event while protecting the Bay Area's beloved national parks and our community's vital relationship with them.

02 [RE-1, RE-8]

Sincerely,

(Please see the following page for signers.)

Jacob E. Perea, Ph.D.
Dean of Education
San Francisco State University

Chuck Collins
President and CEO
YMCA of San Francisco

Margaret Brodkin
Director, New Day for Learning
San Francisco Unified School District

Claudia Jasin
Executive Director
Jamestown Community Center

Jason Guinto
Managing Director
East Bay Asian Youth Center

Teresa L. Arriaga
Executive Director
Seven Tepees Youth Program

Marilee Eckert
Chief Executive Officer
Conservation Corps North Bay

Cody Friesenborg
Associate Director of Youth Ministries
Donaldina Cameron House

Jennifer Grant
Parent
New Traditions Creative Arts Elementary School

Vanessa Carter
Co-Founder of the Green Academy at Abraham Lincoln High School

Nina S. Roberts, Ph.D.
Associate Professor, Department of Parks, Recreation and Tourism
San Francisco State University

Diane Luther
Executive Director
Hamilton Family Center

Rue Mapp
Founder
Outdoor Afro

Mike Yoshioka
Executive Director
City of Dreams

Thomas Ahn
Executive Director
First Graduate

Jennifer Grant
Parent
New Traditions Creative Arts Elementary School

Kyle Macdonald
Founder and CEO
Bay Area Wilderness Training

Jim Neiss-Cortez
Program Director of SF-ROCKS
Department of Geosciences
San Francisco State University

Becky Evans
San Francisco Group
Sierra Club

cc: Senator Dianne Feinstein
Senator Barbara Boxer
Democratic Leader Nancy Pelosi
Ed Lee, Mayor, City and County of San Francisco
David Chiu, President, Board of Supervisors, City and County of San Francisco
Mark Farrell, Supervisor, District 2, City and County of San Francisco

Frank Dean, General Superintendent, Golden Gate National Recreation Area
Craig Middleton, Executive Director, Presidio Trust
Craig Thompson, CEO, America's Cup Event Authority
Mark Buell, Chair, America's Cup Organizing Committee

Addendum: Crissy Field Center: List of Community Organizations Served and Program Partner Map

From: Bill Wycko
To: Joy Navarrete
Subject: Fw: Public Comments on 34th America's Cup and James R. Herman Cruise Terminal and Northeast Wharf Project
Date: 08/25/2011 04:26 PM
Attachments: EIRComments.docx

----- Forwarded by Bill Wycko/CTYPLN/SFGOV on 08/25/2011 04:27 PM -----

Kimberly Pross <kimrows@gmail.com>

08/25/2011 04:14 PM

To: bill.wycko@sfgov.org, joy.navarrete@sfgov.org, Peter Ross <rossfinancial@smkc.com>, Kimberly Peinado <kim@infonetics.com>, Reuben Hechanova <rphechanova@sbcglobal.net>, Michael Coren <michaeljcoren@gmail.com>, Ken Coren <corenlaw@pacbell.net>, aaron.peskin@earthlink.net

cc:

Subject: Public Comments on 34th America's Cup and James R. Herman Cruise Terminal and Northeast Wharf Project

COM-193

Dear Mr. Wycko,

Attached and below please find public comments on AC34 submitted on behalf of the South End Rowing Club and the Dolphin Swimming and Boating Club. Please contact us with any questions.

Thank you,

Kimberly Pross
South End Rowing Club Vice President
415-377-3912
kimrows@gmail.com

Bill Wycko

Environmental Review Officer

San Francisco Planning Department

1650 Mission Street

O-Dolphin3

Suite 400

San Francisco, CA 94103

On behalf of the two thousand members of the Dolphin Club (DC) and South End Rowing Club (SERC), I would like to thank you for the opportunity to provide comments on the Draft Environmental Impact Report (DEIR) for the 34th America's Cup. The purpose of both clubs is to promote and encourage the recreational uses of the San Francisco Bay. For over 130 years, the Dolphin and South End Rowing Clubs have provided an access to the San Francisco Bay that is unique and unavailable through any other venue. We provide boathouses and launching facilities for rowers and kayakers. We maintain historic wooden crafts for our member's enjoyment of the Bay. In addition, the two clubs in total provide swimming facilities for hundreds of swimmers including scores of world-class open water swimmers who compete locally and internationally. We applaud the City's efforts to promote the use of the Bay and the shoreline, help showcase the beauty of the Bay, and promote the economic health of the region.

However, the DEIR describes developments and activities that will not just share, but could effectively deny access for the hundreds of DC and SERC members as well as the growing numbers of non-members who use Aquatic Cove for training for triathlons, open water swimming or simply enjoying a unique and readily available urban beach access. We believe that it was a serious oversight in the DEIR that the value that the two clubs provide as well as the growing recreational use of Aquatic Park was largely ignored. Our comments focus on the Significant Impacts that this document failed to address and mitigate. The DC and SERC are prepared to meet with event sponsors and help resolve conflicts so that adequate access is provided for all. The comments here largely focus on the recreational impacts of the proposed 34th America's Cup and James R. Herman Cruise Terminal and Northwest Wharf Plan, including the impacts on safety and water quality. Comments contained herein are largely focused on impacts related to the use of Aquatic Park and the harm or preclusion of historical recreational uses in the Park, as well as dredging, boat traffic, and air and water pollution in the Park and San Francisco Bay associated with the planned AC34 uses described in the EIR. 01 [RE-2]

CEQA requires that before a decision can be made to approve a project that would 02 [RE-2]

pose potential physical effects, an EIR must be prepared that fully describes the environmental effects of the project. Each significant effect on the environment resulting from the project, and ways to mitigate each significant effect, must be addressed. A significant environmental effect means a substantial, or potentially substantial, adverse change in any of the physical conditions within the area affected by the project, including to land, air or water. [Source: EIR 2-1] In determining whether a significant impact will result, one relevant factor is whether the public has access to alternative, similar resources during that period. [Source: EIR 5.11-35] As outlined below, the draft EIR is inadequate in that it neglects entirely to address the potential environmental impacts of this project on the longstanding swimming, boating and other recreational uses of Aquatic Park, as well as the potential impacts on well-established swimming activities in the Bay as a whole. The draft EIR also fails to provide specific information, as required, about many aspects of the AC34 that will clearly impact these activities. The draft EIR is further inadequate in that it cavalierly proposes supposedly similar resources, which are in fact dangerous and life-threatening, as an alternative to Aquatic Park. Finally, the draft EIR is inadequate in that it neglects entirely to identify, as required, potential mitigation measures -- even where those impacts will clearly be significant, and where there is clearly no alternative, similar resource available. [EIR 5.11-35]

02 [RE-2] cont.

The following is an "Executive Summary" of our concerns:

In sum, the potential physical, environmental, and recreational impacts of AC34 on Aquatic Park are significant. AC34 will also have significant potential physical, environmental, and recreational impacts on the ongoing swimming activities currently occurring in the Bay, outside Aquatic Park.

- The proposed uses described in the draft EIR within Aquatic Park will directly affect the safety and recreation of swimmers and rowers – in the form of construction; consequent changes in currents; physical obstacles such as boats, berthing facilities and a large platform; and deterioration in water quality.
- The proposed uses described in the draft EIR around Aquatic Park will directly impact physical access to recreational resources of Aquatic Park by the general public.
- The draft EIR conflicts with the People Plan in its description of spectator boats to be permitted immediately adjacent to Aquatic Park.

03 [HY-3, RE-2]

- The potential impacts of proposed dredging activities on the greater Bay, specifically its water quality, are insufficiently addressed in the draft EIR.

04 [HY-4]

- The potential impacts on ongoing group swim events in the greater Bay are inadequately addressed.
- Most of the proposed uses are not explained in sufficient detail to accurately assess the impacts.
- Mitigation measures and alternatives have not been adequately evaluated.

05 [RE-2, RE-5]

***Historical uses of Aquatic Park by* South End Rowing Club and Dolphin Swimming and Boating Clubs**

The South End Rowing Club and Dolphin Clubs are located at 500 and 502 Jefferson Street, at the southeast portion of Aquatic Park. Our Clubs are among the oldest institutions in San Francisco, having operated continuously since 1873 and 1877 respectively. We have resided in Aquatic Park since the early 1900s. Our Clubs played active roles in the formation of Aquatic Park. We remain the last vestiges of an era when rowing represented the primary recreational activity on San Francisco Bay and, as such, our historical significance for the area cannot be overstated.

Currently, the Clubs have approximately 2,000 members. The ages of our members range from 18 to over 95; we are multi-generational. As non-profit organizations and tenants of the City and County of San Francisco's Department of Rec and Park, we open our facilities to the public for daily use six days a week. Full-time membership costs less than $1/day. Our Clubs are operated and funded entirely by member volunteers.

The Clubs further Rec and Park's mission by providing recreational access to the Bay. Our primary activities include swimming and rowing, as well as handball and running. The Clubs sponsor some of the most noted aquatic events in the Bay, including the Alcatraz Invitational, the New Year's Day Alcatraz Swim, Escape from Alcatraz Triathlon and several rowing regattas.

06 [RE-6]

Given our historical significance to and active presence in Aquatic Park, we were shocked and dismayed to see that the Draft EIR made not a single mention of either Club in connection with AC34 or its potential impacts. We are willing to give the Event's organizers the benefit of doubt that such omission was not intentional but stemmed from compressing a process that normally takes two years into a relatively short period of time. 06 [RE-6] cont.

That said, our Clubs have substantive concerns over various impacts of the plans described in the DEIR on the activities of our Clubs. In brief, we believe that:

- The proposed uses identified in the Draft EIR for and around Aquatic Park will directly affect the safety of Club members and Aquatic Park users and the quality of the water in which we swim and row.
- The Draft EIR fails to consider the ecological impact on the Aquatic Park and potentially the surrounding areas such as the Marina and the Piers.
- Many of those proposed uses are not explained in sufficient detail for us to accurately assess the impacts.
- Mitigation measures and alternatives have not been adequately explored and or evaluated.

07 [HY-5, HY-3, HY-9c, HY-9e, RE-2]

Our Clubs cherish the remarkable resource that San Franciscans have with the Bay. We embrace the multitude of recreational activities that now occur in the Bay and cry out against occurrences that negatively impact this resource. We see AC34 as having the potential to represent the ultimate celebration of the Bay. However, the scope of AC34 and its impacts are far-reaching and, in many instances, ill-defined and/or require more effective mitigation than what is currently proposed. In the spirit of constructive participation in the Draft EIR process, we respectfully provide the

following comments. 07 [HY-5, HY-3, HY-9c, HY-9e, RE-2] cont.

COMMENT 1

The DEIR fails to properly address the impact on swimmers in Aquatic Park and fails to provide an appropriate alternative.

The draft EIR states that "on peak use days, some recreationists who currently use . . . Aquatic Park . . . would not want to use these areas due to the size of the crowds, spectator support facilities, or near shore spectator boats present for the America's Cup events. Some recreationists may instead use other similar regional recreational facilities and shoreline areas." [EIR 5.11-41]

First, as outlined below, the reason swimmers and other recreational users would be pushed out of Aquatic Park would not be because of mere inconvenience due to crowds and so forth. Rather, as described – but not adequately addressed -- in the draft EIR, they would be pushed out of Aquatic Park because of specific safety hazards in the form of hazardous underground obstacles in the water, surface physical impediments above water, and decreased water quality. 08 [RE-2]

Second, the primary alternative water resource proposed by the draft EIR is Ocean Beach. [EIR 5.11-41] In fact, Ocean Beach has been cited as "**the** most hazardous and dangerous piece of shoreline associated with an urban environment in the whole United States." http://www.universityofcalifornia.edu/news/article/4381

Further, Aquatic Park is the only protected water-contact recreational use area inside the Bay. It is not safe to swim at Ocean Beach or Baker Beach on a daily basis as hundreds of people regularly do in Aquatic Park. Wave energies, currents and rip tides are much worse in these exposed areas and these areas are not usable as a practical matter by small boats. The same is true as to kayakers and stand up surfboarders. Finally, there is no other safe or similar area to launch the vintage row boats that come and go from Aquatic Park on a daily basis. **Accordingly, there are**

no similar resources and the finding of "less than significant impact" is without basis and contrary to CEQA. In fact, encouraging more swimming and boating in these "alternative areas" present a large safety risk and present a liability to the City for suggesting that these locations are as safe and accessible as Aquatic Park.

08 [RE-2] cont.

Based on this recklessly proposed alternative, the EIR precipitously concludes that the impact of this project on Aquatic Park would be "less than significant." [EIR 5.11-41] The draft EIR claims that the lead agency is entitled to avoid a finding of "significant recreational impact under CEQA" despite "short-term disruption of access" to existing recreational resources "if the public has access to alternative, similar resources during that period." [Page 5.11-35]. Given the finding of less than significant impact, the draft EIR offers no mitigation and fails to offer the alternative of not proceeding with the proposed use.

COM-196

COMMENT 2

DEIR does not accurately assess the length of time Aquatic Park will be affected by AC34, as the timeframe of activities in Aquatic Park is not specified.

09 [RE-2]

The impacts of the proposed barge, screen and exhibition boats in this small, heavily used aquatic recreational area would not be "short-term" as presented ("on peak race days") since they are not dependent upon volume of spectator presence or race activities, but would be in place continuously throughout the prime summer and fall months for at least two consecutive years at a minimum. Their presence could indeed be for the full two years or more, since the draft EIR does not state that the barge, screen and exhibition boats would be removed when the annual racing ends or between seasons.

Moreover, much of the infrastructure proposed by AC34 for Aquatic Park, including large concrete blocks (see comment 3 below) would appear to be anything but

temporary.

09 [RE-2] cont.

COMMENT 3

LED screen on a floating barge in Aquatic Park presents many significant impacts that are not mentioned in the DEIR

5.11.3.3 at page 5.11-39, states that " ... spectator viewing of the races from Aquatic Park would be obscured by Municipal Pier..." The lead agency is proceeding upon the factually false premise that spectator viewing of the races would be obscured by Municipal Pier. Spectators who would be watching the proposed barge-mounted LED screen would be seated in the concrete bleachers by the Maritime Museum. These bleachers are elevated above the beach level as is the lawn area, and do in fact provide an unobstructed view of the race area.

10 [NO-2, HY-5, HY-3, RE-2]

The LED screen on the floating barge also presents a public safety issue for several reasons:

- The installation, either permanent or temporary, of a large video screen on a floating platform and the associated devices such as a cable for electrical supply, and the mooring of large concrete blocks potentially connected can have a heavy ecological impact to Aquatic Park, the Marina and the Piers. Such installations will modify the currents today established in Aquatic Park and the associated dredging activity may result in moving large quantities of sediments. This would disturb the toxic heavy metals and other pollutants known to be trapped in the mud and sediments of Aquatic Park and lead to a pollution event in Aquatic Park and in the adjacent areas, Marina and Piers. These impacts are not addressed.

- Power supply to the screen would endanger human and aquatic life in Aquatic Park. Generator use on a floating barge will cause significant air and noise pollution.

- The proposed concrete anchors for the barge, and the craft needed to put and keep it in place, would disturb the toxic heavy metals and other pollutants known to be trapped in the mud and sediments of Aquatic Park.

The use of a video display in this natural setting would obscure views of the Bay and Golden Gate Bridge, and would increase sound and light pollution. There is also no restriction or prohibition of commercial or advertising use, such as advertising of soft drinks, luggage or other non-racing content. People go to Aquatic Park to escape the barrage of commerce, not to see and hear televised advertising. The commercial operations proposed for the south perimeter of the park -- "merchandise sales and concessions" -- will serve what is expected to be 3,000 AC34 related visitors on a 2012 peak race day and up to 7,000 visitors on a 2013 peak weekend race day." [5.11-39]. A great deal of concession and commercial activities already occur along the entire length of the waterfront, and in close proximity to Aquatic Park. As a federally protected recreation area, the addition of yet more commercial operations into one of the few areas where this does not occur will significantly detract from the quality and character of the Park. Moreover, the throngs of people that AC34 is estimated to attract to this rather concentrated area will give rise to other health and safety issues - i.e., the amount of litter that will be generated and the need for large numbers of portable toilets will mar this historic setting and other impacts caused by overcrowding.

10 [NO-2, HY-5, HY-3, RE-2] cont.

The DEIR fails to adequately discuss alternative venues for such large video display. Such a video display is far better suited to the City Hall area, which has been used with great success to show other events of regional importance (e.g. World Cup soccer). Moreover, the Civic Center would provide far superior public transportation access compared to the Aquatic Park area.

An alternative method for viewing AC34 would be on Muni Pier, which would provide unobstructed views of the event. In its present condition, Muni Pier currently cannot hold the crowds that are expected for the area. However, it can be repaired and doing so would leave a positive footprint on the Aquatic Park area.

COMMENT 4

DEIR fails to address the specific timeframe Aquatic Park and the Bay will be closed to recreation due to the race schedule. There is no plan to keep the areas open as much as possible for daily recreation use.

The draft EIR fails entirely to address the impacts upon the thousands of individuals who participate in open water swimming and rowing events, or daily access to Aquatic Park and the wider Bay during the months of proposed racing and course closures. These include Alcatraz and Golden Gate Bridge crossings, as well as Bridge to Bridge swims and points in between.

The draft EIR fails to recognize the extensive, well-established, and longstanding group swimming activity in the Central San Francisco Bay. Under "Existing Water Uses in Central San Francisco Bay" (section 5.2.1.2), the draft EIR fails to provide a comprehensive list, as required, of such current activities. Despite the fact that dozens, if not hundreds, of group swim activities occur in the Central Bay each year. This section contains no reference to this activity whatsoever.

11 [RE-2, RE-5, RE-6]

The draft EIR states, "During each race, and for a period before and after, restrictions on maritime traffic and airspace would be required." [Source: 3-28] Again, the draft EIR, while obviously anticipating similar restrictions on swimming activities in the Bay as a whole, omits any reference to restrictions on swimmer traffic. Further, the draft EIR is deficient in that it fails to specify what "period of time before and after" each race would carry such restrictions. It is safe to say that -- while swim activities within Aquatic Park begin before sunrise and continue until after sundown – swim activities in the rest of the Bay generally occur in the early morning and conclude by mid-morning. Further, according to the draft EIR, it appears that on-the-water AC34-related activities are generally scheduled to start at 11 am. [Source: 3-32] However, the draft EIR fails to specify that -- so as to mitigate impact to the extent possible -- the ongoing swim activities outside Aquatic Park will be permitted to occur as usual until at least mid-morning of each day.

The draft EIR further fails to note that the organizers of these group swim activities

have over the years formed an excellent and cooperative working relationship with the Coast Guard Vessel Traffic Service. As a consequence, the draft EIR fails entirely to address the potential impact on this relationship, and what, if any impact, this project will have on the current protocol for scheduling and administering these swims.

Note that the draft EIR's outline of the Water and Air Traffic Plan also neglects to address the potential impact on swim events outside Aquatic Park, and how these will be addressed. (EIR 3-88]

One of the Draft EIR's few references to swimmers is contained in its "Brief History of Aquatic Park." [EIR 5.5-17] It notes that, "At least as early as the 1880's, bathers congregated in the cove to enjoy its warm waters – the result of heated industrial discharge from nearby facilities…." Today's swimmers are no longer warmed in this way, and rather are subject to seasonable water temperature fluctuations. Late summer and early fall are the warm water months for Aquatic Park. Swimmers, particularly children, the elderly, and novice swimmers, are most likely to use Aquatic Park during those months. Unfortunately, these are the times that this project proposes to monopolize Aquatic Park. As a consequence, the impact of this project on Aquatic Park will occur disproportionately during its highest use periods.

The draft EIR projects approximately 12-17 days of racing in the one or two ACWS events to be held in San Francisco, and 45-50 racing days in the series planned for 2014. (These events may be repeated in the future, to an unknown extent.) [EIR 3-27, ft. a] Based on completely inadequate substantiation, the draft EIR somehow extrapolates this level of activity into supposed "insignificant" impact on current activities in Aquatic Park. This assertion fails on several levels:

- Over three years, this level of activity averages out to 23-28 racing days per year. Monopoly of Aquatic Park for almost a month every year does not constitute "insignificant" impact.

11 [RE-2, RE-5, RE-6] cont.

COM-198

- The draft EIR fails to explain how the many allegedly "temporary" facilities (e.g., "temporary berthing facilities") will realistically be removed at the end of every racing period.

- The EIR fails to note that this average 23-28-day period per year will, due to the seasonal changes in water temperatures, consistently occur <u>during the peak usage times of Aquatic Park by swimmers.</u>

- As noted above, the draft EIR's proposal that swimmers substitute Ocean Beach, one of the most dangerous beaches in the United States, for the sheltered waters of Aquatic Park, is not only inadequate; it is remiss and irresponsible.

In conclusion, the draft EIR fails in virtually any respect to address <u>each significant effect on Aquatic Park resulting from this project</u>. Further, it erroneously asserts that <u>the public will have access to alternative, similar resources during the period of impact.</u> And finally, it fails to propose <u>mitigation of these significant effects.</u>

11 [RE-2, RE-5, RE-6] cont.

COMMENT 5

Street Closures in the northern waterfront may prohibit access to the DC and SERC. Access mitigation plans have not been developed yet. Inter-Agency Access Plan is inadequate under CEQA case law.

12 [RE-2]

There is no plan offered or proposed to coordinate, accommodate, and/or mitigate impacts to existing historical recreation uses in the Bay such as swimming and small-boating due to street closures that would occur because of races. These have the potential to significantly impact or preclude entirely uses of the Bay that have occurred for more than a century by hundreds and, at times, thousands, of people. As the America's Cup event has the potential to become a long-term presence in the Bay, this must be addressed before approval of the EIR.

The Access mitigation proposed in the document is to, at some future time prepare an Inter-Agency Access Plan to address access conflicts and safety issues. CEQA

Case Law is very clear that documents proposing plans or actions that will be described at some future date to minimize impacts to less than significance are inadequate under CEQA. You are denying the public the ability to comment on plans that themselves may have impacts or may not fully address the issues. You cannot tell, nor can the public, that there is no significant impacts caused by the access "Plans". In fact, if the Board of Supervisors approved the EIR, they would do so without the knowledge that there could be Immitigable Impacts and therefore denied the ability to judge and perhaps make findings of Overriding Considerations. The Officials who have the public trust and the authority to make judgments whether a project is important enough to make a finding of Overriding Considerations would be denied that authority and the decision would instead be made by staff without the benefit of public input. The public would also be denied the process provided by CEQA and the legal protections there under.

We fully appreciate the time sensitivity of certifying the DEIR and the concerns with preparing an Access Plan that would encompass the input of numerous agencies and municipalities. However, time constraints are not an acceptable reason for diminishing the public process. We are willing to work with the appropriate authorities to help expedite an Access Plan that meet all Coast Guard safety requirements, America's Cup goals and shares public access.

12 [RE-2] cont.

COMMENT 6

Temporary Berthing Facilities and Large Race Boat Mooring in Aquatic Park create many impacts: pollution, poor water quality, over-crowding, and management and safety patrol issues.

13 [PD-6, RE-2]

The draft EIR further describes the "Installation of Temporary Berthing Facilities for AC34 Race/Support Boats and/or Private Spectator Boats." [EIR 3-27, Table 3-1] It is unknown what the nature, permanence, and level of intrusiveness of these "anchoring systems" might be. The draft EIR refers to "125 cubic feet" concrete cubes, some of which would have to be "connected together" to provide "the resistance as required for larger vessels" (those over 70 feet in length). The draft EIR fails to provide any further details, and entirely fails to assess the potential negative impact on the longstanding recreational uses of Aquatic Park. The average depth of Aquatic Park ranges from a mere seven to 14 feet as referenced by http://www.charts.noaa.gov/OnLineViewer/18649.shtml

The draft EIR fails to analyze whether it is possible under any circumstances to install such "temporary berthing facilities" and still safely permit the existing swimming (let alone public wading) activities throughout the cove, given its shallow nature. Note that while a buoy line along the shoreline is formally designated on some maps as the "swim line," in fact (a) during low tide it is possible to stand (as opposed to swim) at the buoys; and (b) in any case swimming takes place on a daily basis over every square foot of the Aquatic Park cove.

The draft EIR further fails to explain exactly how "temporary" these berthing facilities will be. Will they be removed between events, or merely between racing seasons? Further, the EIR fails to analyze the potential impact on water quality – particularly as it relates to human swimmers -- of repeatedly installing and removing these "temporary" facilities. Notwithstanding the lack of detail provided by the draft EIR, it is clear that these plans would significantly impede the current recreational use of Aquatic Park. It is also clear that these plans, though only vaguely described, raise potentially serious safety issues for the users of Aquatic Park. Finally, it is clear that these proposed facilities will create substantial physical adverse effects on Aquatic Park. Neither these recreational impediments, nor these safety issues, nor these significant adverse physical effects are addressed in any way whatsoever by the draft EIR.

13 [PD-6, RE-2] cont.

It is also unknown what the planned number or size of these boats might be. According to the EIR, large spectator vessels are "over 150 feet in length). [Source: 3-31] The current maximum number of boats permitted in Aquatic Park is 24. Are we really to understand that up to 24 150-foot boats are to be permitted in Aquatic Park at one time? To understand the potential impact that the installation and berthing of these various boats would have on Aquatic Park, it is necessary, at a minimum, to establish: (a) the maximum number of boats; (b) the maximum size of these boats; (c) the planned functions of these boats, including whether to be moored or continuously moving about; and (d) the potential impact on water quality – as relevant specifically to human swimmers; and (e) the plan for enforcement of limits and other requirements (including prohibitions on emissions) on all boat traffic into, within, and exiting Aquatic Park. Again, these plans, though only vaguely described, raise potentially serious issues – both as to impediment of use and safety -- for the users of Aquatic Park. Neither these potential recreational impediments nor the potential safety issues are addressed in any way whatsoever by the draft EIR.

Figure 3-23 of the draft EIR presents the Proposed Aquatic Park Venue Plan. However, it does not appear that aspects of this diagram are to scale. It is remiss and misleading that an omission for the boats, barge and other proposed structures in Aquatic Park are not be presented to scale. Further, although this diagram shows only three boats, other sections of the draft EIR present the impression that more than three boats would be permitted in Aquatic Park. Again, it is remiss and an omission for the proposed number of boats to not be accurately presented in this diagram.

13 [PD-6, RE-2] cont.

COMMENT 7

The increased boating and construction activity in the Bay will lead to more water pollution and there is no analysis of how this will affect bay swimming, water quality in general and public health.

There is no mention of inevitable emissions from visiting watercraft polluting the waters shared by swimmers daily and no assessment of the efficacy of the 'Outreach Program' proposed by the AC 34 Planning Committee in thwarting the spread of *Undara pinnatifida*, and or other invasive species throughout the Bay or measures that will be employed to eradicate it and/or other invasive species that may result as an unavoidable consequence of the increase and origin of visiting boat craft to the event. There is also no mention of the potential for spectator boats to illicitly discharge sewage and the health hazards that it might be poise to the local and non-local public. Public health would be at risk for infection and local fish at risk for contamination that are exposed to such discharges. Measures to enforce compliance of no dumping of sewage need to be addressed.

Pile drivers and vibratory hammers are to be used in construction activities as indicated in Section 5.7.3.3 and use of these will result in debris and introduction of

14 [HY-5, HY-9c, HY-9d, HY-9f]

COM-200

O-Dolphin3

contaminants into the Bay in addition to the noise described in the mitigation measures, but this is not addressed. Demolition and construction activities such as pile driving that are proposed in the AC 34 project are expected to occur at various locations along the waterfront over a two-year period thus poising a long-term effect.

In Mitigation Measure M-B1-11a (Impact Hammer Pile Driving Noise Reduction for Protection of Fish), there is a requirement for the use of cushion blocks for impact pile driving, but there is no measure taken to assess or prohibit the introduction of debris, particulate matter and toxic materials that will be released into the waters of the Bay or to protect fish from hazardous materials released by the process. Other areas of the Bay risk being impacted by pile driving activities when released contaminants and debris are spread by ebbing and flooding.

The mitigation plan to employ cushion blocks between the hammerhead and concrete piles and employment of vibratory drivers for the installation and removal of steel pilings and employment of a "soft start technique" to all pile driving to give fish and marine mammals an opportunity to vacate the area does not adequately address the exposure risk of hazardous materials to fish and human activity in the Bay.

The plan to disable the land based cruise ship power for several years during the construction of the cruise ship terminal will mean an increase in boats being moored and running on full diesel. This will greatly increase the pollution to the bay and adversely affect all bay users.

14 [HY-5, HY-9c, HY-9d, HY-9f] cont.

From the information provided so far, we believe that the Aquatic Park should not be used by the AC34 because:

- this could lead to a potentially disastrous pollution event,

15 [GEN-4]

- this would put the present users of the Aquatic Park at risk and could result to casualties,
- this would prevent the current thousands of users from accessing the Aquatic Park.

15 [GEN-4] cont.

Respectfully,

Kim Peinado Howard
President
South End Rowing Club
500 Jefferson Street, Aquatic Park
San Francisco CA 94109

kim@infonetics.com

Reuben Hechanova

President
The Dolphin Swimming and Boating Club
502 Jefferson Street, Aquatic Park
San Francisco CA 94109

rphechanova@sbcglobal.net

COM-201

MORRISON | FOERSTER
425 Market Street
San Francisco
California 94105-2482
Telephone 415.268.7000
Facsimile 415.268.7522
www.mofo.com

RECEIVED
AUG 25 2011
CITY & COUNTY OF S.F.
PLANNING DEPARTMENT
MEA

August 25, 2011

Writer's Direct Contact
415.268.7145
ZGresham@mofo.com

Via Hand Delivery and U.S. Mail

Bill Wycko, Environmental Review Officer
San Francisco Planning Department
1650 Mission Street, Suite 400
San Francisco, CA 94103

Re: Comments on the Draft Environmental Impact Report for the 34th America's Cup and James R. Herman Cruise Terminal and Northeast Wharf Plaza

Dear Mr. Wycko:

Equity Office Properties (EOP) submits these comments on the Draft Environmental Impact Report (DEIR) for the 34th America's Cup and James R. Herman Cruise Terminal and Northeast Wharf Plaza. Our comments are directed solely to the 34th America's Cup (Project).

EOP holds a long-term lease from the City and County of San Francisco (City) on the San Francisco Ferry Building, including the Ferry Plaza behind the Ferry Building and promenades down each side of the Ferry Building. In addition, for the term of that long-term lease, EOP is the licensee from the City of Seawall Lot 351 for parking to serve the Ferry Building. These areas are accessed by vehicle exclusively from The Embarcadero. Accordingly, EOP has a strong interest in ensuring that projects and events in the area occur in a manner that accounts for safe and adequate circulation, access, and parking along The Embarcadero.

The first step in the consideration of any such project is adequate review under the California Environmental Quality Act (CEQA). Unfortunately, after reviewing the DEIR, it is clear that the Project as described in the DEIR, and the City's environmental review of the Project in the DEIR, are flawed. Because of the way the DEIR is organized, it is challenging for the public to determine exactly which portions of the DEIR are supposed to satisfy which mandates of CEQA. As described more fully below, the information that should properly be included in the DEIR project description is deferred to implementation plans that will not even be finalized until after the DEIR public review period is closed. This precludes proper identification and analysis of the impacts from the whole Project, identification and analysis of mitigation measures to lessen those impacts, and identification and analysis of a

01 [GEN-2]

reasonable range of alternatives to the proposed Project. These elements are all required under CEQA, but they are not clearly delineated in the DEIR. However, because we are addressing the Project from a CEQA perspective, we will frame our comments in that manner.

Among other things, the project description on which the whole DEIR is based fails to describe basic facts necessary to establish the parameters of the Project and the DEIR improperly defers analysis in many respects of whether the Project will cause significant adverse environmental effects, and the determination of mitigation measures to address such effects, to the final People Plan. As a result, the DEIR fails to address certain potential effects at all, understates substantially the severity of the potential effects which it does address, and fails to present and analyze a reasonable range of alternatives that identify feasible mitigation measures that would lessen the adverse impacts. Moreover, the DEIR is short on facts and analysis, and long on conclusory statements. As the statute governing judicial review of CEQA, Code of Civil Procedure section 1094.5, states, a lead agency's findings must be "supported by substantial evidence in the light of the whole record." Substantial evidence means facts, not opinions and assertions. CEQA Guidelines § 15384. 01 [GEN-2] cont.

We emphasize that EOP supports San Francisco's hosting the America's Cup. However, we have concerns about implementation. Unfortunately, the deficiencies of the DEIR are such that no sensible conclusions properly may be drawn from that document. Indeed, pursuant to CEQA, before it may proceed, the City must correct the material deficiencies in the DEIR, so that the public will have a meaningful opportunity to review the Project's potential environmental impacts as CEQA requires.

Because of its concerns, EOP recently engaged Arup, the global engineering and consulting firm, to conduct an independent assessment of the area's parking and access supply and demand. *San Francisco Ferry Building Comprehensive Access and Parking Study*, Arup (August 2011) (Arup Report). As the Arup Report confirms, the City has grossly underestimated the area's parking demand and overstated the available supply and it has understated the needs for access for the Farmers Market and the local merchants, patrons, and visitors to the Ferry Building. The revised DEIR for this Project should evaluate access and parking impacts using the reliable data contained in the Arup Report. Highlights of the Arup Report are discussed below, and the full report is attached to this letter as Exhibit A.

1. <u>The Project Description Is Inadequate as It Fails to Describe Clearly the Implementation of The Embarcadero Northbound Roadway Closure.</u> 02 [TR-3d]

A fundamental flaw in the DEIR is that the project description does not describe the whole Project as required by CEQA. Buried in the document under the subheading "Project Transportation Improvements Assumptions," the public learns that closure of The

Embarcadero northbound is proposed during major race days. Closure of a major San Francisco thoroughfare on roughly two dozen days when a crowd of up to 500,000 spectators will swell the City's waterfront is an integral part of the Project. This must be described in the project description itself.

An accurate project description enables the public to understand the full scope of a project and its potential effects on the environment. "A curtailed or distorted project description may stultify the objectives of the reporting process. Only through an accurate view of the project may affected outsiders and public decision-makers balance the proposal's benefit against its environmental cost, consider mitigation measures, assess the advantage of terminating the proposal . . . and weigh other alternatives in the balance. An accurate, stable and finite project description is the *sine qua non* of an informative and legally sufficient EIR." *County of Inyo v. City of Los Angeles*, 71 Cal. App. 3d 185, 192-93 (App. Ct. 1977).

Further, the project description must be sufficiently detailed to enable an informed decision about the project. The purpose of an EIR "is to inform the public and its responsible officials of the environmental consequences of their decisions *before* they are made. Thus, the EIR 'protects not only the environment but also informed self-government.' [Citation.]" *Citizens of Goleta Valley v. Bd. of Supervisors*, 52 Cal. 3d 553, 564 (1990). 02 [TR-3d] cont.

According to the DEIR, the America's Cup operations are described in a series of implementation plans. Traffic and transportation are supposed to be governed by the People Plan. The City describes the relationship of the People Plan to the DEIR as follows:

> "[T]he People Plan is included as part of the project for review in this EIR. The CEQA review process may result in additional recommendations, including mitigation measures, about how to manage transportation, traffic and spectators. Those measures may be imposed as mitigation measures as part of the approval of the project or may be incorporated into the People Plan. The People Plan may be revised as a result of the CEQA analysis and process, and as project details are refined and broad community input is received." DEIR at 3-87.

Thus, the current draft People Plan issued March 31, 2011 (Draft People Plan) supplements the project description in the DEIR with regard to traffic and transportation.

However, this project description is so general and conditional that it does not meet the requirements of CEQA to give decisionmakers and the public a clear understanding of the particular elements of the Project, and therefore deprives them of the ability to evaluate the effects of the Project and the alternatives to what is proposed

For example, the Draft People Plan generally contemplates closure of The Embarcadero northbound on high volume weekend race days as a potential element of the Project. It cautions that "the Event attractions, ferry terminals and other non-race-event businesses along the waterfront require some level of access across those same lanes, not to mention residents and commuters in the area who depend on the Embarcadero as a major travel facility. Therefore such a closure should be studied carefully" and "a thoughtful approach" should be designed. Draft People Plan at 4-14.

The DEIR does not provide sufficiently detailed information about when, how often, and for what periods of time The Embarcadero northbound closure would occur to allow for meaningful review. It states that "the threshold at which the closure would be implemented (e.g., for example, when more than 100,000 spectators are projected to attend events on a particular day) and methods to permit vehicular access to existing businesses along the waterfront *are currently being developed*, and would be included as part of the final People Plan." DEIR at 5.6-43 (emphasis added). Instead of describing the facts, the DEIR substitutes assumptions about the threshold for the road closures. The assumptions themselves are not entirely clear – for example, the threshold may or may not occur on Saturdays alone, it may or may not include holiday weekdays, and it may or may not be set at 100,000 spectators or some other number. *See* DEIR at 5.6-43. Further, the DEIR omits entirely any discussion of the "methods to permit vehicular access" for existing businesses such as the Ferry Building. The DEIR omits these essential facts completely, deferring the creation of a true project description until the *final* People Plan is developed, which would occur long after the public review period on the DEIR has closed.

02 [TR-3d] cont.

The DEIR also indicates that alternate routing plans would be implemented as part of the roadway closure, but that the actual detour routes would be developed later by SFMTA and may vary to reflect future conditions such as traffic demand, other street closures, and infrastructure construction projects. *See* DEIR at 5.6-43-5.6-44. This approach is flawed for several reasons. First, the DEIR must describe the detour routes, signage, and related strategies as part of the project description. Second, it must evaluate the traffic and circulation impacts from the alternate routing plans themselves. Third, it is not possible to determine the feasibility and effectiveness of hypothetical alternate routing plans as a means of mitigating the impacts from The Embarcadero closures. The DEIR must be revised to include this information and analysis.

The City has put the proverbial cart before the horse by releasing the DEIR before a People Plan with any meaningful detail has been available. Unfortunately, contrary to the City's own admonition, the DEIR does not study carefully the potential road closure, and it does not take a thoughtful approach.

O-EOP

The DEIR must be revised to include a detailed description of the days and times of the road closure as well as a feasible plan for ensuring vehicular access for the Farmers Market and the local merchants, patrons, and visitors (especially those with mobility challenges) to the Ferry Building and adjacent areas along the waterfront. This information must be developed now so that the City can evaluate the environmental effects from the road closure and so that the public will have a meaningful opportunity to comment on this element of the Project

02 [TR-3d] cont.

2. <u>The DEIR Improperly Segments Environmental Review of the Whole Project.</u>

A project, for CEQA purposes, means the whole of an action. CEQA Guidelines § 15378(a). An EIR must analyze the environmental effects of a future action as part of the project if: "(1) it is a reasonably foreseeable consequence of the initial project; and (2) the future expansion or action will be significant in that it will likely change the scope or nature of the initial project or its environmental effects." *Laurel Heights Improvement Ass'n v. Regents of the Univ. of Cal.*, 47 Cal. 3d 376, 396 (1988). To defer analysis of such future actions is improper "segmenting" under CEQA.

03 [PD-7]

The transportation and traffic measures that will be included in the final People Plan are not merely a reasonably foreseeable consequence of the Project, they are an integral part of it. Plans for movement and management of up to 500,000 spectators will have significant environmental effects that must be evaluated in the DEIR. The DEIR fails to describe the plans or analyze the impacts, improperly segmenting the Project. What is worse, there is no indication that any additional CEQA review will be conducted for the final People Plan. Thus, it appears that the City intends to develop a major traffic and transportation plan without any analysis of the environmental effects, mitigation measures, or alternatives as CEQA requires. The DEIR must be revised to include the whole Project.

3. <u>The Inadequate Description of The Embarcadero Closures Precludes Meaningful Analysis of Traffic and Circulation Impacts.</u>

CEQA requires that an EIR provide sufficient analysis and detail about the proposed project and its potential environmental impacts to enable informed decision-making by the agency and informed participation by the public. *See* CEQA Guidelines § 15151; *Kings County Farm Bureau v. City of Hanford*, 221 Cal. App. 3d 692 (Ct. App. 1990). An EIR must contain facts and analysis, not just an agency's bare conclusions. *Citizens of Goleta Valley v. Bd. of Supervisors*, 52 Cal. 3d 553, 568 (1990).

04 [TR-3d]

As explained above, the DEIR does not adequately describe the proposed closure of The Embarcadero northbound. As such, it cannot and does not provide an adequate analysis of the environmental impacts from the road closure and the detour routes.

The DEIR fails to analyze the potentially significant impacts that would result from the elimination or restriction of vehicular access to the Ferry Building Marketplace. Using the assumptions in the DEIR, however flawed, the Project would close The Embarcadero northbound on at least 17 major race days, with the potential for closures on an additional 12 days where the hypothetical 100,000 spectator threshold is very nearly reached. *See* Table 5.6-10 at DEIR 5.6-55. These closures would be devastating to the Ferry Building retail and office tenants, merchants, and Farmers Market.

The DEIR must consider the circulation and traffic impacts that would result from restricted vehicular access, particularly on weekend days. Vehicular access is critical to the Ferry Building's success, for a number of reasons. Our retailers have unique storage constraints due to the building's location over water and the public access needs within the building, and many of them require multiple just-in-time deliveries per day to serve their customers. The retail shops alone receive between 200-400 truck deliveries per day to support operations. Service access is also necessary for parcel and supply deliveries to our office tenants. Ferry Building merchants supply many local chefs with their daily needs for fresh goods and produce, prompting 75 chef pick-ups on Saturdays alone. Some of these merchants also offer catering services, with attendant pick-ups and drop-offs.

On Saturdays, the peak race days on which the DEIR assumes that The Embarcadero will be closed, the Ferry Building hosts the extremely popular Farmers Market. Recent foot traffic counts at the building entrances confirm that 25,000 visitors come to the Ferry Building on Saturdays and an average of 10,000-15,000 visitors arrive each day Sunday through Friday. During the peak time of the Saturday Farmers Market, Arup's survey of Ferry Building users indicated that at least 1,600 vehicle trips are generated by Ferry Building visitors and Farmers Market patrons. These visitors need vehicular access to the curb in front of the Ferry Building for pick-ups, drop-offs, and valet service, as well as access to the parking areas located along The Embarcadero and in Seawall Lot 351. On Saturdays, there are at least 24 pick-ups and drop-offs at the curb every hour, and curbside access is particularly critical for patrons with limited mobility.

In addition, access to the Ferry Plaza from The Embarcadero is essential for the Farmers Market trucks. On Saturdays, approximately 90-120 farmers' trucks are parked on the Ferry Plaza, with an additional 45 trucks parked across the street, from 5:00 a.m. to 4:00 p.m. These trucks need unrestricted access to the Ferry Building to maintain operation of the Farmers Market.

The DEIR must identify and address the circulation and traffic effects from the many Embarcadero closures, as well as related safety, noise, and air quality impacts that would result from changed circulation patterns around the Ferry Building. The City must also demonstrate compliance with the Americans with Disabilities Act for the Project, which will

04 [TR-3d] cont.

reduce accessibility and parking options around the Ferry Building. The DEIR underestimates these impacts or omits them entirely in violation of CEQA.

04 [TR-3d] cont.

4. <u>The DEIR Does Not Adequately Analyze Impacts on Emergency Access.</u>

The areas on the Bay side of The Embarcadero can be reached by vehicles only from that roadway. In addition to the Ferry Building, that includes the Hornblower Cruises & Events pier as well as several other piers, restaurants, shops, and other businesses. Closing The Embarcadero northbound will cut off the occupants and visitors to those buildings from fire, ambulance, and police services. Under existing conditions, there are approximately 3-5 emergency vehicles that already access the Ferry Building on Saturdays. The People Plan does not describe how these services will be assured and bolstered for waterfront businesses while The Embarcadero is closed, placing up to 500,000 race fans between those occupants and visitors and emergency help.

The conclusory statement that "access for emergency response vehicles and Port tenants on piers within the restricted area would be provided" is not supported by any facts or analysis, and cannot substitute for a real consideration of the dangers that cutting off such access could present. *See* DEIR at 5.6-43.

05 [TR-3d]

5. <u>The DEIR Does Not Adequately Analyze Parking Impacts.</u>

The America's Cup will undoubtedly impact parking across the length of The Embarcadero and particularly the Ferry Building area which provides ideal vantage points for the races. The DEIR does not properly evaluate these impacts.

Parking is critical for many of the Ferry Building tenants and patrons, as well as the Farmers Market. As detailed in the Arup Report, parking within the Ferry Building service area is already limited, and conditions were worsened in 2008 when the Port of San Francisco closed Pier ½. Seawall Lot 351 is now the most highly used parking area for the Ferry Building.

Demand for parking at Seawall Lot 351 and other areas within the Ferry Building service area will increase during the races, causing direct and cumulative impacts. Table 5.6-35 of the DEIR shows a weekend parking demand for 30,756 parking spaces. *See* DEIR at 5.6-170. At least part of this demand will be absorbed by the Ferry Building parking areas, and specifically Seawall Lot 351, which the Draft People Plan identifies as a proposed parking area for the Project. Draft People Plan at 4-11. Moreover, the Port of San Francisco is currently considering a proposal to develop Seawall Lot 351, which would eliminate parking at the site during construction. This could overlap with the Project, removing one of the designated parking areas and further exacerbating parking impacts.

06 [TR-10]

The DEIR does not adequately explain how the City plans to accommodate parking demand during the races. Parking impacts along The Embarcadero and particularly at the Ferry Building, along with the resultant traffic, air quality, noise, and safety impacts, must be properly evaluated. 06 [TR-10] cont.

6. The DEIR Must Analyze Unrestricted Access Along The Embarcadero as an Alternative.

CEQA dictates that "agencies should not approve projects as proposed if there are feasible alternatives or feasible mitigation measures available which would substantially lessen the significant environmental effects of such projects . . . ." Pub. Res. Code § 21002. In fact, "one of [an EIR's] major functions . . . is to ensure that all reasonable alternatives to proposed projects are thoroughly assessed by the responsible official." *Wildlife Alive v Chickering*, 18 Cal. 3d 190, 197 (1976).

The DEIR does not present and evaluate a reasonable range of alternatives. Instead, transportation alternatives are deferred to the final People Plan – "The People Plan would examine alternatives for transportation to event venues," after the public review period for the DEIR is closed. *See* DEIR at 3-87. This is a clear violation of CEQA's mandate to evaluate alternatives as part of the environmental review for the Project. 07 [TR-3d]

Because of the access, traffic, and parking impacts indicated above, the DEIR must evaluate a reasonable range of alternatives that might reduce or eliminate those effects. In particular, the DEIR must evaluate an alternative which would keep The Embarcadero northbound open in front of the Ferry Building. Unrestricted vehicular access in this area is a feasible alternative to the roadway closure and it would substantially reduce the circulation, traffic, and parking impacts described above.

7. The DEIR Improperly Defers the Identification and Analysis of Mitigation Measures.

Modifications of a project and other measures which might substantially reduce or eliminate potentially significant adverse effects must be evaluated in a draft environmental impact report and, if feasible, imposed. CEQA Guidelines §§ 15091(a), 15126.4. 08 [GEN-3, IO-4a, IO-4c]

Because of the inadequate project description and consequent incomplete analysis of potentially significant environmental effects, this DEIR does not even identify the adverse effects, much less detail the mitigation measures that CEQA requires.

O-EOP

8. EOP Concurs in Related Comments Submitted by Others.

A number of other individuals and organizations have submitted comments on the inadequacies of the DEIR, which relate to the topics discussed in this comment letter. Rather than restating all the same information and analysis, EOP joins in those comments 09 [GEN-3]

9. To Meet the Requirements of CEQA, the DEIR Must Be Revised Substantially.

For all of the reasons described above, as well as in additional comments presented by others, the DEIR does not comply with the requirements of CEQA. It must be revised to provide a meaningful project description, recognize the adverse effects from The Embarcadero northbound closure, study appropriate alternatives, and present effective measures to mitigate the potentially significant adverse effects of the closure of The Embarcadero northbound as part of the Project 10 [TR-3d]

EOP looks forward to an opportunity to review a substantially revised draft environmental impact report.

Sincerely,

Zane O. Gresham

August 25, 2011

TO: Joy Navarrete
Bill Wycko

FROM: Jeff Hamilton
Director of Government Relations
Exploratorium

RE: DEIR Public Comment

Please accept this document as the Exploratorium's Public Comment on the 34th America's Cup DEIR.

For consistency I have pasted our original AC People Plan public comment below, as it states our concerns clearly, and because the People Plan is being integrated into the EIR over time.

As stated below in our ACPP comments, we are supportive and excited about the opportunity the Americas Cup represents. And we are encouraged by the effort by CCSF staff to be responsive to a mountain of public comment. 01 [TR-3d]

That being said we are concerned about the lack of specificity about how the EIR and People Plan propose to balance transit and traffic needs for the event with the legitimate and critical needs of those businesses located in the race venue areas. We expect between 5,000 and 10,000 visitors a day to walk through our doors as Pier 15. A substantial number of our visitors must arrive by either auto or tour bus. How, specifically, will the Exploratorium be able to facilitate this access in conjunction with the Americas Cup events?

Specifically, how will the City assure the Exploratorium (and other local businesses) that we can operate at full capacity during AC race activities? 02 [TR-3d]

We would like to point out a key passage (with emphasis added in bold) from Table 1-3 of the DEIR (Page 1-32):

COM-206

"Mitigation Measure M□TR□1: People Plan Specific Provisions
As part of the proposed project, the City would develop and implement a People Plan consisting of a variety of interrelated programs to facilitate access by all modes to and from the AC34 event venues, **while maintaining acceptable conditions for residents,commuters, businesses and visitors.** To address specific impacts identified in this EIR, the programs in the People Plan shall be developed to accommodate weekday and weekend events at various levels of spectator attendance and shall include specific provisions described below."

We set the above passage against the following proposed People Plan solution (found in the DRAFT Progress Report #2) for traffic on the Embarcadero (emphasis added in bold):

One or both northbound lanes and the northbound parking lane of the Embarcadero will be closed to motorized vehicle traffic during the America's Cup events to ensure that there is sufficient travel space for bicycles and that people on bicycles are separated from people walking on Herb Caen Way. Police will determine whether one or both northbound lanes will be closed based on safety and demand. There will be alternate routing plans in place, along with signage and other communications strategies, to be deployed when both lanes are closed to northbound traffic. Closures will likely begin several hours in advance of the events and last for several hours after events. The EIR is evaluating access restrictions on some roads in the vicinity of the America' Cup events as a "worst case scenario." Restricted would retain access for residents, business deliveries, emergency vehicles, transit vehicles, event staff, and other specified users. Checkpoint and enforcement personnel would be needed for restricted areas. 02 [TR-3d] cont.

While we understand that the police and the MTA (and presumably the TMD part of the People Plan) will allow discretion and on-site management of traffic conditions, the Exploratorium **MUST** be able to operate a huge public facility that is partly dependent by its nature on auto and tour bus access due to our very large population of children and youth. For example, in 2013 an estimated 400,000 children will visit our new Pier 15 facility.

For economic, mission and safety reasons we must ask that the EIR and the People Plan specifically provide assurances that we can deliver our mission at our new facility at Piers 15/17 as sited in this document.

We would like the same concerns addressed regarding the 2012 World Series events at the Marina Green and Chrissy Field. Street closures and other 03 [TR-3c]

proposed solutions in the Palace of Fine Arts area raise very serious questions about how the Exploratorium can operate at full capacity during race activities.

Street closures adjacent to our facilities at either the Palace of Fine Arts or Piers 15/17 should be a last resort and implemented in partnership with Exploratorium facility staff and our Management Team.

03 [TR-3c] cont.

Finally, we would like to highlight concerns raised in our People Plan public comment and in meetings with the Port that the City provide a comprehensive solution for how the Exploratorium is to manage crowds on our public pier aprons at Piers 15/17.

04 [TR-3d]

[PASTED BELOW ARE OUR PEOPLE PLAN PUBLIC COMMENT SUBMITTED HERE AS PART OF OUR DEIR PUBLIC COMMENT]

May 31, 2011

TO: Mike Martin
Peter Albert
Adam Van De Water

FROM: Jeff Hamilton
Exploratorium

RE: Public Comment, America's Cup People Plan

Background

As one of San Francisco's premier cultural and educational institutions, the Exploratorium is ideally situated to benefit from and contribute to the City's historic participation in hosting the 34th America's Cup. This is true at our current location at the Palace of Fine Arts, where we are located across the street from

Crissy Field—a primary 2012 race viewing area. And it is even more true at our Pier 15/17 location where we open in the Spring of 2013.

In order for the promise of this event to be fulfilled for the Exploratorium, the scope and scale of the Exploratorium's daily operations must be integrated into the America's Cup People Plan (ACPP) at both of the Exploratorium's locations. At its current location, the Exploratorium's annual attendance is nearly 600,000 visitors. At our new location we expect annual attendance of over 800,000—and probably much more in our opening year.

In more tangible terms, at our new Piers location, we will be operating what amounts to a small city on a daily basis: between 3,000 and 5,000 daily visitors (with peak days hitting 12,000), over 400 Exploratorium staff, vendor & concession staff, a full-service restaurant/cafeteria, a café, two retail stores, a theater and bar with evening programming, special events (weddings, corporate parties), summer camps for children, teacher training programs and prominent scientific conferences. These activities require vendor deliveries, security, maintenance, as well as automobile, school and tour bus drop-offs. And all of these activities must be successfully carried out in a densely populated urban center.

Additionally, the new Exploratorium includes outdoor areas available to non-ticketed visitors and pier aprons with views of the water, open to the public, that will be an attraction unto themselves. Finally, the new location—a revitalized Embarcadero—offers its own set of challenges—which become more so when combined with an event on the scale of the America's Cup.

05 [PS-5]

The opening year of any museum at a new location is a critical milestone. When done properly, the institution is re-branded, the new visitor experience is communicated widely to the largest possible audience through the media, large attendance numbers generate revenue to offset increased costs, the staff ramps up and is re-trained and the institution is re-set, re-positioned and takes its place at a whole new level. Much is riding on the success of our first year. Therefore, proper coordination with the City for America's Cup is essential to the ongoing success of the Exploratorium's new location.

This opening must be planned while the Exploratorium continues to operate its current location where it must maintain interest and attendance while planning its move. Therefore, it is essential that the 2012 America's Cup at Crissy Field include provisions that allow the Exploratorium to operate at full capacity at its current location while race activities proceed.

Broadly stated, the Exploratorium has the following areas of concern:

- Public Confidence in the People Plan
- Ability to Operate at Full Capacity

- Area Transportation Access
- Exploratorium Facilities Access
- Security & Crowd Control
- Operations and Communications Access

05 [PS-5] cont.

Ability to Operate at Full Capacity
A pier is a unique structure. Even though it is nearly three football fields long, it has essentially one set of entrances on the west end for most purposes. We are essentially an island, and therefore easily isolated. We ask that the ACPP be designed to allow us to operate within this environment at full capacity. What this means specifically is outlined below.

06 [TR-3d]

Public Confidence in the People Plan
The People Plan must gain public confidence and be adequately communicated so that stakeholders in the area can operate their facilities at full capacity during all America's Cup activities. A public impression that the larger Embarcadero area is off limits, or too difficult to reach or navigate will have a negative impact on our operations and revenue.

We will do our part to help the City develop and implement this plan and be full partners in promoting and disseminating the plan elements to our visitors and staff.

07 [TR-3d]

Transportation Access
Our success in managing our institution during America's cup at both the Palace of Fine Arts and Piers 15/17 depends on the correct blend of public transit, auto access, bike use, and pedestrian safety.

Specifically:

- A robust staffing of the F-line. Given Muni's chronic under-capacity for this line, we would like to see a more detailed and definitive description of how F service (and F shuttle service) would operate, with assurances that the SFMTA will have the operators and vehicles needed to deliver service.
- We are asking for a full roll out of the E Line to facilitate Caltrain connections.
- That the plan include additional details about how Caltrans will manage traffic in and out of San Francisco and how stakeholders can utilize such information.
- More information detailing how the media will be engaged to accurately communicate AC transportation issues.

08 [TR-4a]

Facilities Access

Given the scope and scale of our facility, the ACPP must provide for access to our building for visitors, staff, concessions, deliveries, car drops offs, bus drop offs and bus staging, special events, conference attendees as well as emergency personnel and police or security. Additionally, about 20% of our visitors come from outside the nine-county Bay Area and will not have access to public transit and must arrive by car. Street closures or poor traffic management could severely impact visitor attendance at either the PFA or Piers 15/17 locations.

Specifically:

- The ACPP estimates upto 200,000 spectators on a high volume weekend race day. How were these figures estimated? We would like to have access to the most accurate estimates moving forward for our planning purposes.
- Section 3.2, item 6 says Pier 19, 19 ½ and 23 would have no public access. Would this impact Piers 15/17?
- Section 4.3.1 mentions the installation of directional signage. While this could be highly effective, we would like assurances that messaging takes the needs of Exploratorium visitors into account (i.e. not directing drivers away from the Exploratorium).
- Section 2.4.3 mentions additional information about modal shares, arrivals, departures, etc. We would like access to this information when its available.
- Our visitors need access to Seawall Lot 321 parking (across from Pier 15/17) during race activities. We would like more details about how this can be assured.
- We currently plan on using private lots for tour bus parking and staging. We need assurances that these buses can readily move to/from our facility as needed. Also, will the ACPP calculate our bus staging in estimating available parking in the area?
- Assurances that our visitors can utilize parking and gain entrance to our Palace of Fine Arts (PFA) site in 2012. The plan currently proposes possible automobile restrictions in the Marina District. 85% of our visitors at the PFA arrive via either automobile or school/tour bus. Street closures or auto restrictions could effectively close the Exploratorium on race days. We need clarification that we can operate at full capacity on race days.

09 [TR-3d]

- We are also concerned about 2012 race day activities consuming all available parking adjacent to the PFA. We would like to work with ACPP staff to consider dedicated parking or other solutions.

- We would also ask to review the 2012 transportation plan so that it coordinates with our Doyle Drive parking plans, which involves complicated movements of cars and buses to/from temporary parking facilities.

- We ask that the ACPP staff and Port work with the Exploratorium to establish how possible Pier 15/17 berthing would work with crowd control, security and other access and safety issues. So called "mega yachts" as well as Navy or other Federal vessels may dock at our piers during AC34. We need planning around these issues.

- With regard to the east end of the Pier 15/17, we ask the ACPP and the Port to work with us to establish when (and whether) the east apron will be used for berthing. This is critical because special event activities that utilize our east Observatory Building will have their views of race areas impeded if vessels are docking at the east end.

- Our vendors will need access for deliveries. We would like more detailed information about access hours and expected peak periods. We will do our part to work with our vendors to schedule them for non-race days or after hours.

09 [TR-3d] cont.

Security & Crowd Control

When adding AC34 activities to the already large Exploratorium attendance numbers, the need for coordinated security and crowd control is heightened. Given the large population of children and youth who attend our institution, there are unique needs that need to be considered.

Specifically:

- We would like the ACPP to detail the issue of youth and children's needs. We expect about 400,000 children will visit our museum in 2013. Are CCSF personnel prepared to handle the unique needs of young visitors—especially those arriving in large groups? Presumably this would be pertinent at other youth-oriented locations adjacent to race activities.

- We cannot see in the plan how public plazas outside Pier 15 & 17 will be maintained. For example, our summer camp buses will drop in front of Pier 17 and our Explainers (docents) and transportation staff will lead students from there to the Main entrance. Large crowds on race days

10 [PS-5]

could make safe staging difficult. Bike use of the promenade, while manageable under normal conditions could also offer hazards when crowds are large.

- Pier 15 & 17 pier aprons are open to the public. The plan needs to address how the Port and other CCSF personnel will prevent over-crowding on our Pier aprons—especially those adjacent to museum entrances and concessions.

- Investigation of whether SFMTA crossing guards or other CCSF personnel can assist with managing crosswalks, the F-line platform, sidewalks, pier aprons and entrances for crowd control and safety adjacent to Piers 15/17 and the PFA in 2012.

10 [PS-5] cont.

Operations and Communications Access

Once the ACPP is formally adopted in September of 2011, implementation in real time becomes the next challenge. We ask that the CCSF include the Exploratorium in appropriate operations and communications settings so our staff has access to real time management of the ACPP.

Specifically:

- We would like our key staff to be introduced to the points of contact and/or counterparts at the SFMTA, the SFPD, SFFD, DPW, the Mayor's Office and any other appropriate agencies.

- This would include having key staff added to email distributions, being invited to implementation planning sessions and included in any appropriate management systems.

- Press access to the Exploratorium: we will need TV satellite trucks and other press needs to be accommodated. This is not detailed in the ACPP.

- The possibility of the ACPP working with stakeholders to establish publication deadlines—dates that allow sufficient lead time for publication of collateral, signage and electronic communications about the ACPP.

11 [GEN-1]

June 2, 2011

TO: Peter Albert
Mike Martin
Adam Van De Water

FROM: Jeff Hamilton

RE: Addendum, Exploratorium Public Comment
America's Cup People Plan

Peter, I would like to thank you and your colleagues for your time on Tuesday, May 31st. My colleagues and I appreciate the opportunity to share our views on the most effective ways to ensure the 34th America's Cup is a success for all involved.

We would like to take you up on your offer to meet with our Facilities staff and other key Exploratorium personnel as a means of establishing key relationships and to begin preliminary AC34 planning. I will be in touch with you soon to organize this meeting.

Also, per your offer for us to offer additional People Plan input, I wanted to add some additional public comment. Some of these points expand on input we submitted in our first memo on the subject. Some points are new.

Finally, we'd like to take the opportunity to mention some ideas about legacy projects.

Additional Exploratorium Input to ACPP

1. As an overall comment, **section 2.3.3 ["Businesses and Neighbors in the Vicinity of the Events"]** establishes the principle that the ACPP, while prioritizing Participants and Race Viewers, must be informed by the needs all those who utilize the City's transportation infrastructure to conduct business for non-AC34 purposes. At the same time, **2.4.2 ["Environmental Sustainability"]** talks about the need to control automobile use in key spectator areas.

   We want to underscore our support for sustainability. One of the primary reasons for our move to Piers 15/17 is precisely its access to public transit and its potential to be a truly multi-modal location. And it would of course

12 [GEN-1]

COM-210

be impossible to manage AC34 viewing areas without careful control of automobile access.

That being said, there is some potential tension in implementing both sections 2.3.3 and 2.4.2 for those entities who are so tightly bound up in the race venues. We want to state how critical it will be for us to be part of the negotiation and planning process for how, when, and under what circumstances automobile access to our venue will be controlled. And, as previously mentioned, both bus and car drop offs and parking for these vehicles needs to be addressed.

Once agreed to, we will also need access (and we understand this is already part of your plan) to data we can transmit to our visitors about the specific details of automobile (and tour and school bus) access.

Once a plan is finalized, we have our own substantial networks through which we can distribute information—our school district partners throughout the Bay Area, our website, our media relations staff, collateral materials and newsletters, our access to social networking—all of which can be mutually beneficial for the dissemination of important transportation data to a wide audience.

12 [GEN-1] cont.

2. Section 2.4.4 ["Positive Legacy'] mentions some key criteria that are absolutely at the heart of our move the Piers 15/17 and core to our educational mission. Our move allows us radical access to traditionally underserved communities. Adjacent to our new location we become neighbors with Chinatown. Proceeding south, the City's transit system gives us access to the Mission, Bayview/Hunters Point and Visitacion Valley. Caltrain connects us to underserved communities on the peninsula. To the east, BART allows us access to Oakland and other underserved East Bay communities.

   We would be most supportive of those AC34 legacy projects that would provide permanent access by these communities to the City's arts, cultural, educational and commercial institutions, of which we are one. We are therefore particularly supportive of 2.4.4, item c, which highlights "environmental and social equity" benefits" of affordable transportation connections.

   Specifically, we would like to urge the City and its AC partners to prioritize full capacity on the F line. We also ask that the E line be rolled out and established as a permanent Muni historic streetcar line. We also support the F-line extension to Fort Mason—which would allow underserved communities to have access to the many educational and cultural benefits of Fort Mason as well as connections to the Presidio and the GGNRA.

13 [TR-3d, TR-8a]

O-Explor

Finally, in keeping with our commitment to bicycle access to our site (where we will have bike storage for our staff and bike racks for our visitors) we would like to encourage that the ACPP be planned and implemented with an eye towards permanent bike improvements on the Embarcadero. 13 [TR-3d, TR-8a] cont.

Thank you for the opportunity to provide additional input. We look forward to working with you and your colleagues to make AC34 an historic success for San Francisco and the Bay Area.

COM-211

O-FMC

FORT MASON CENTER
SAN FRANCISCO

LANDMARK BUILDING A FORT MASON CENTER
SAN FRANCISCO, CALIFORNIA 94123-1380
www.fortmason.org
415.345.7500
415.441.3405

August 25, 2011

Joy Navarrete
San Francisco Planning Department
1650 Mission Street, Suite 400
San Francisco, CA 94103

Regarding: America's Cup Draft Environmental Impact Report

We appreciate the extensive task undertaken in preparation of the Draft Environmental Impact Report for the America's Cup. As a nonprofit cultural and community serving Center on the northern waterfront of San Francisco, Fort Mason Center(FMC), is concerned about public access and the potential impact of limiting public access to the programs, events, and organizations offered on our 13 acre campus during the periods when America's Cup races are held.

Specifically in section 5.6 regarding transportation it does not appear that the draft takes into account the potential impact for the proposed limitation on vehicular access to FMC. The FMC campus is home to more than two dozen community serving nonprofit organizations which depend upon public access for their financial survival. In addition to resident nonprofits, FMC hosts events each week in 23 different venues on campus. The income from these rental events provides the funds needed to allow Fort Mason Center to support programs and organizations that have a significant presence in the Bay Area. 01 [TR-3c]

Unfortunately, public transportation to Fort Mason center is limited. Therefore, access to and through the vehicular entrance on Marina Blvd at Buchanan Street adjacent to the Marina Green, identified in the Draft EIR as a heavily used site, needs further analysis or clarification. Final plans should include allowing normal access to the FMC campus. We hope that the plans for the America's Cup takes into account the needs of the 1.8 million visitors per year to Fort Mason Center.

We look forward to working with you on making the America's Cup a successful event for San Francisco

Sincerely,

Pat S. Kilduff
Director Community Partnerships and Marketing

O-FOTE

RECEIVED
AUG 2 5 2011
CITY & COUNTY OF S.F.
PLANNING DEPARTMENT
MEA

Friends of the ESTUARY
PROTECTING • RESTORING • ENHANCING
THE SAN FRANCISCO BAY DELTA ESTUARY

August 24, 2011

Bill Wycko, Environmental Review Officer
San Francisco Planning Department
1650 Mission Street, Suite 400
San Francisco, CA 94103

RE: COMMENTS ON AMERICA'S CUP DRAFT ENVIRONMENTAL IMPACT REPORT

Dear Mr. Wycko:

The Friends of San Francisco Estuary submits the following questions and comments on the Draft Environmental Impact Report on the Americas Cup race planned for 2012 and 2013. We are generally concerned about potential adverse impacts on the environment of the Central Bay. We are particularly concerned about dredging, other work planned to accommodate the race, as well as the impacts of the many thousands of boats and spectators that are expected. For this race to take place without significant damage to the ecosystem of the Bay, more thorough planning is needed and additional mitigation measures need to be identified and implemented. In addition, the final EIR should include an enforcement plan and that relevant agencies and interested stakeholders be included in the planning effort. **01** [BIM-8b]

We have the following recommendations and questions:

1. An enforcement plan should be developed and implemented to better ensure compliance with the laws and regulations to protect Bay resources. While many visitors will be responsible and abide by the informational materials that will be provided to boaters and spectators, all people cannot be depended upon to even read the information much less abide by the restrictions.
Monitors are proposed for some locations, however, monitors alone will not be sufficient. It is essential that people with authority to enforce laws and regulations are available to deal with situations where people refuse do not obey. **02** [IO-4b]

The enforcement program should be prepared and described in the EIR. The program should address protection of water and wildlife resources on both land and Bay in addition to the safety of the public. The EIR should identify the agencies or other governmental entities (e.g. Coast Guard, NPS police) with enforcement authority over the particular activity and location, e.g. the NPS would only have authority over federal lands.

Board of Directors
John Andrew
R. Michael Avalos
Charles Bailey
Cathy Blake, A.I.C.P.
Beth Dyer
Arthur Feinstein
Rainer Hoenicke, Ph.D.
Lawrence P. Kolb, Ph.D.
Jane Lwin
Mike Monroe
Rick Moratz
Elizabeth Patterson, A.I.C.P.
Sandy Potter
Christopher Rowand
Barbara Salzman
Ted Smith
Kristen Strawn
Pamela Stuenkel
Seth Zeigler

COM-212

P.O. Box 791
Oakland, CA 94604
(510) 622-2337
fax (510) 622-2501
http://sfep.abag.ca.gov

O-FOTE

Additional coast guard and/or other law enforcement agency personnel will be needed along with current staff to perform the necessary tasks. The EIR should address how much additional personnel is needed and discuss the available enforcement tools, such as penalties for violations. **02** [IO-4b] cont.

2. Dredging of 165,000 cubic yards of material will be needed to prepare pier areas to accommodate large boats. What testing has been performed on this material to identify levels of pollutants it may contain? Where would the material be disposed of or reused? If the material is not planned to be beneficially reused, is there a way it could be? **03** [HY-4]

3. Prevention of pollution from bacteria, nutrients and trash has been a high priority for Friends and for the San Francisco Estuary Partnership. The discharge of sewage and grey water from boats into the sensitive ecosystem is of concern and effective pollution prevention programs are needed to address these potential discharges. Are new programs and enforcement activities being developed to address these potential water quality problems? How many new honey barges are anticipated to patrol the bay waters? **04** [HY-9a, HY-9c]

4. The Bay is an important habitat for migrating birds. Central Bay in particular is important habitat for pelagic birds. What birds will be in the Central Bay during the race periods and what mitigation measures would be taken to protect them from impacts of the increased number of boats? How will disturbance to rafts of pelagic birds be avoided? **05** [BIU-5a]

5. Alcatraz is an important nesting and roosting habitat for many birds. A 1000-foot buffer no-boating zone is planned for around the island. What agency would enforce these restrictions and how would they be enforced? Would enforcement personnel would be present to patrol when activities are occurring on the island? **06** [BIU-5b]

6. Central Bay also has some significant stands of eelgrass, particularly in Richardson Bay.. What measures would protect these beds from people boating into the eelgrass beds and causing damage to this dwindling resource? **07** [BIM-4a]

7. The introduction of invasive species is an ongoing problem in the Bay and is a concern of many agencies. Identify measures beyond an information packet to prevent the introduction of invasive species that could come with boats from other areas. Is there a way to ensure boats perform necessary maintenance prior to entering the Bay for the event. **08** [BIM-7]

Thank you for development providing the above information. More thoroughly planned and articulated system for dealing with the influx of people and boats will protect the sensitive environment of the Bay and make for a safer experience for all.

Sincerely,

Barbara Salzman
Chair

Fisherman's Wharf
COMMUNITY BENEFIT DISTRICT

August 25, 2011

Bill Wycko
Environmental Review Officer
San Francisco Planning Department

Re: Fisherman's Wharf Feedback on America's Cup Draft EIR

Dear Bill,

The Fisherman's Wharf Community Benefit District (FWCBD) is excited that San Francisco has been awarded the America's Cup. We believe the event will not only be an economic benefit to the City of San Francisco and our district, but will also serve as a catalyst for long term transportation changes that will benefit everyone before, during and after the actual event itself. We applaud the City for developing this EIR and the comprehensive People Plan and have been meeting with our district regarding both documents. The outreach that has been shown to our district is a true example of how a public private partnership should work in preparation for such a significant event. We look forward to working together to develop a world class people plan for the City of San Francisco, that welcomes visitors, respects our residents, and supports a vibrate business community. We hope the plan itself contributes to the legacy of the America's Cup in San Francisco. 01 [GEN-1]

Our comments are focused on the transit and circulation portions of the EIR and are listed below.

5.6 Transit and Circulation

- Our district is opposed to the proposal to completely close the Northbound Embarcadero on event days. The Northbound Embarcadero is the main route for autos, buses and delivery trucks into our district. Events that close access on this route negatively impact our business by essentially blocking access to the district. Most of our visitors are not familiar enough with the city to feel comfortable navigating detours that take them off the Embarcadero.
- We ask that the organizers seriously consider the business and economic considerations of closing the Northbound Embarcadero to traffic before making any decisions to do so.
- With over 500 businesses and 10,000 employees in the district any program that restricts vehicle access could definitely negatively affect our operations. We question how such a large number of businesses, combined with the number of residents, could effectively be addressed through restricted access passes that are being suggested.

02 [TR-3d]

- We strongly support the permanent addition of the E-Line. Allowing visitors to directly connect from Cal-Train to the Wharf will be an incredible step forward and should happen as soon as possible.
- The F-line is our lifeblood and it is critical that the line is prioritized to run its entire route through Fisherman's Wharf and not be turned back early at PIER 39. Turning the train back at PIER 39 cuts out the majority of Fisherman's Wharf.
- We strongly support the increased frequency on the key lines serving our district including the 30 Stockton and 47 Van Ness.

03 [TR-4a]

2801 Leavenworth Street, Second Floor, Suite B-16 | San Francisco, CA 94133
T 415.673.3530 | F 415.673.2527 | www.visitfishermanswharf.com

O-FWCBD2

- While we completely understand and support the emphasis on transportation options other than private automobiles, we want to ensure that those who do choose to drive are also allowed to enter Fisherman's Wharf by vehicle.
- Currently, 21% of our visitors arrive by private automobile and we have over 6,500 parking spaces in our private parking lots that not only provide revenue to our operators but to the City of San Francisco as well.
- The use of satellite parking will be a great option for some visitors but again we want to make sure the parking options in our district are also communicated so that they are used to their fullest

04 [TR-3c]

- We fully support the efforts of the plan to create a welcoming and safe environment for the hundreds of thousands of visitors who enjoy our district on foot. We have enjoyed strong support from DPT at our major intersections during peak seasons and request the same during the America's Cup events.
- We would welcome additional permanent way-finding signage that could become a positive legacy from the event
- We strongly agree with getting as much information out to our visitors as possible and will utilize our resources to help inform the public.

05 [TR-2f]

The Fisherman's Wharf CBD looks forward to the America's Cup and if you have any questions please contact me at (415) 673-3530.

Sincerely,

Kevin Carroll
Executive Director

O-GGAS2

August 25, 2011

Via U.S. Mail and electronic mail
Mr. Stanley Muraoka
Environmental Review Officer
San Francisco Redevelopment Agency
One South Van Ness, 5th Floor
San Francisco, CA 94103
stanley.muraoka@ sfgov.org

Mr. Bill Wycko
Environmental Review Office
San Francisco Planning Department
1650 Mission Street
San Francisco, CA 94103
bill.wycko@sfgov.org

RE: Request for the Final Environmental Impact Report for the 34th America's Cup and James R. Herman Cruise Terminal and Northeast Wharf Project (Case No. 2010.0493E)

Dear Mr. Muraoka and Mr. Wycko:

This comment letter on the above-referenced project and Draft Environmental Impact Report ("DEIR") is submitted on behalf of the Golden Gate Audubon Society and its more than 10,000 members and supporters in the San Francisco Bay Area. Because the DEIR fails to adequately identify the significant impacts to the biological resources of the project area and its environs, Golden Gate Audubon finds that the DEIR is fatally flawed and further environmental analysis and revision of the Preferred Alternative ("the Project") is necessary.

As an initial matter, Golden Gate Audubon wishes to be clear that it does not oppose the holding of the 34th America's Cup in San Francisco Bay or the proposed redevelopment of much of the San Francisco waterfront. The financial and political wisdom of hosting the event is an issue for the city's elected officials and voters to decide. However, GGAS cannot endorse the EIR in is current state because of its broad, unmitigated impacts to wildlife, habitats, and the values of people who care about them. In its haste to accommodate the America's Cup's stakeholders, the City appears to be willing to compromise its values regarding environmental protection. If the City continues with its apparent effort to push the EIR through without

01 [GEN-3]

GOLDEN GATE AUDUBON SOCIETY
2530 San Pablo Avenue, Suite G Berkeley, California 94702
phone 510 843 2222 fax 510 843 5351 web www.goldengateaudubon.org

COM-214

O-GGAS2

rectifying its deficiencies, the City will find it has created an unnecessarily confrontational environment that may delay the project and potentially imperil it altogether.

01 [GEN-3] cont.

I. INTRODUCTION

Since 1918, Golden Gate Audubon's mission has been is to protect Bay Area Birds and other wildlife, and to conserve and restore native wildlife habitat. Golden Gate Audubon serves to connect people of all ages and backgrounds with the natural world, and educates and engages Bay Area residents in the protection of our shared local environment. We have worked for years conducting conservation research, restoration, education and outreach in San Francisco and throughout the central San Francisco Bay, including the Golden Gate National Recreation Area (GGNRA), Treasure Island and Yerba Buena islands, Angel Island, Alcatraz Island, and the open waters of San Francisco Bay. We have conducted surveys of wildlife and conservation and restoration efforts along the waterfront and in the GGNRA. We have also been engaged in reviewing and commenting on development plans along the waterfront, most recently at Treasure Island.

Many residents and visitors in the project area and its environs enjoy observing birds and other wildlife that rely on the abundant resources of the Bay and its shoreline. Birding is one of the fastest-growing outdoor recreational activities in North America, generating billions of dollars for businesses adjacent to bird watching destinations. *See, e.g.*, US Fish & Wildlife Service, *Birding in the United States: A Demographic and Economic Analysis*, Report No. 2006-4 (available at http://library.fws.gov/Pubs/birding_natsurvey06.pdf) (finding that birders spent approximately $36 billion in 2006 on equipment and birding-related trip expenditures, including travel, transportation, food, lodging, and user fees). Much of these expenditures occur in locales that birders visit to see birds and other wildlife. Protecting the birds and bird watching opportunities along the San Francisco waterfront, at Alcatraz, and on the open waters of the Bay benefits local residents and businesses, and will continue to do so long after the America's Cup event has come and gone from San Francisco.

GGAS was an early participant in the "America's Cup Environmental Council", a coalition of Bay Area and national environmental groups that met to discuss potential impacts of the event and to work with the City of San Francisco to facilitate the successful execution of the 34th America's Cup in a manner that resulted in the fewest impacts to the environment and to the residents of San Francisco. GGAS co-signed scoping comments to the AC EIR with other groups of the ACEC. GGAS incorporates comments providing in the scoping letter by reference in this letter.

Because GGAS's primary mission and expertise focuses on the conservation of wildlife, habitats, and responsible access to them for humans, we defer to our colleagues that have submitted comments as part of the America's Cup Environmental Council, specifically on issues related to (1) transportation and management of crowds, (2) greenhouse gas emissions, (3) impacts to water quality, (4) impacts to native plants, and (5) impacts to cultural and historical resources. Moreover, GGAS' geographical range extends from San Francisco County to western Alameda and Contra Costa Counties. For impacts in Marin County, we defer to and join in comments provided by the Marin Audubon Society.

02 [INT-4]

O-GGAS2

II. GENERAL CONCERNS

In the preparation, review and certification of a CEQA document, participants and the lead agency must constantly remind themselves that CEQA mandates that "the long-term protection of the environment . . . shall be the guiding criterion in public decisions" throughout California. (Cal. Public Res. Code § 21001(d)) A "project" is "the whole of an action" directly undertaken, supported, or authorized by a public agency "which may cause either a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment." (*Id.* § 21065; CEQA Guidelines 14 CCR § 15378(a) ("CEQA Guidelines"))

There is no doubt that the 34th America's Cup will result in direct and reasonably foreseeable indirectly physical changes to the environment in San Francisco, the open water of the Bay, and adjacent areas. As the DEIR itself explains, the role of the EIR is create an informational document that must be adequately comprehensive, complete, and make a good faith effort at full disclosure. (DEIR, at 2; CEQA Guidelines § 15151) GGAS is concerned that the provisions of the Host Agreement and its obligations will result in a biased review by the Planning Commission and the Board of Supervisors. Given the tight timeline and the demands made by the Project sponsors (especially for valuable real estate along the San Francisco waterfront), the Supervisors and the City may find themselves subject to tremendous political pressures to uphold the EIR or minimize mitigation measures to accommodate the America's Cup sponsors. Such a result would compromise the unbiased and transparent process required by CEQA. 03 [GEN-3, PD-1]

GGAS is also concerned that the Project Description is incomplete, especially in so far as it fails to fairly describe impacts resulting from the long term development deal made for portions of the San Francisco waterfront with the Event sponsors. An adequate EIR must include "an accurate, stable and finite project description" in order to be necessarily informative and legally sufficient. *County of Inyo v. City of Los Angeles*, 71 Cal.App.3d 185, 193 (1977). The DEIR explains that the potential future long term development rights will be subsequently reviewed pursuant to CEQA. (*Id.*; *see also* DEIR, at 5.1-11) As such, it appears to be an effort to piecemeal several small projects which, taken alone, may not result in impacts with the same level of significance that may be discerned if the projects were considered together. (*Arviv Ent., Inc. v. South Valley Area Planning Com.* (2002) 101 Cal.App.4th 1333, 1346)

Therefore, GGAS asks that the City review these and other comments and substantially revise the DEIR to include (1) a better assessment of impacts to wildlife and habitats in the Project area and its environs; (2) improved mitigations that are not speculative and are verifiable; and (3) a better assessment of cumulative impacts. These issues are addressed more fully below.

O-GGAS2

III. THE DEIR'S DESCRIPTION OF THE PROJECT SETTING IS INCOMPLETE.

A. The Description of Existing Land Uses at Project Site sand Vicinity is Incomplete.

Section 5.2.1.1 purports to provide a description of existing land uses in and around the project. (DEIR, at 5.1-2). Unfortunately, the descriptions for many of the areas are spare and fail to acknowledge their ecological use (or use by people who appreciate their ecological values). The wildlife and habitats present at many areas included within the Project area contribute to their attractiveness for visitors and will enhance the experience of race spectators. While the DEIR may acknowledge some of these factors in its assessment of biological impacts, it would provide a more complete picture of the project setting and existing uses if it included at least some mention of important ecological features. Areas along the San Francisco waterfront are home to diverse species of birds and marine mammals, which are attractive to tourists and local wildlife enthusiasts. The section clear does anticipate the ecological value of some areas, such as Crissy Field, though it fails to provide specific information such as the fact that Crissy Field includes a special Wildlife Protect Area intended to protect the federally-threatened Snowy Plover. (*See* DEIR, at 5.2-11-13) The description of Alcatraz Island should also include a statement that the island is home to several species of nesting seabirds, which are an attraction for visitors to the island throughout the year. The incomplete picture of the project sites and vicinity contribute to the overall inadequacy of the DEIR. (*See* CEQA Guidelines § 15125(a)) 04 [LU-1]

B. The Description of Existing Land Uses at Secondary Viewing Sites Is Vague and Inadequate.

Section 5.2.1.3 purports to describe existing land uses at secondary viewing sites. (See DEIR, at 5.2-16, -17) The section is very brief and glosses over most of the secondary viewing sites. GGAS is particular concerned about the lack of specific information about potential secondary viewing sites in Marin, specifically within the GGNRA. The Project has the potential to result in significant impacts to the GGNRA and a more adequate description of those areas would help with the consideration of impacts and an assessment of the DEIR's adequacy in addressing and mitigating those impacts. The FEIR should include an expanded discussion of the existing land uses at each, specific secondary viewing area. 05 [LU-1]

C. The Description of the Central Bay and Open Water Habitats Is Incomplete.

Due to fill of the Bay, we have lost approximately 80-90% of wetlands and 40% of the open water habitat in the Bay. The highly-developed and compromised habitat of the Central Bay forms the baseline against which impacts from the Project may be assessed. Therefore, the description of the Central Bay and open water habitat should better reflect the compromised nature of the environment. This information would inform the assessment of the cumulative impacts analysis, which must take into account the past as well as future development of the Bay. 06 [BIU-1]

O-GGAS2

IV. THE DEIR FAILS TO ADEQUACY ASSESS IMPACTS ARISING FROM THE PROJECT.

GGAS is concerned about the myriad deficiencies in the DEIR's impacts analysis. Overall, the impacts analysis is incomplete, omits discussion of potential impacts, provides inaccurate or skewed analysis of some impacts, defers analysis of impacts, relies on conclusory and unsupported analysis, fails to address long-term impacts, and does not adequately address cumulative impacts. Each of these deficiencies are addressed in turn below. 07 [GEN-3]

A. The DEIR Fails to Adequately Assess or Mitigate Impacts at Secondary Viewing Areas.

The DEIR states that "none of the secondary viewing areas would have the programmed amenities, event information, or hospitality attractions sponsored by the Event Authority similar to what has been proposed at the primary venues." (DEIR, at 5.1-7) The DEIR's assumption of visitation levels at the secondary viewing areas appears to be largely speculative, built upon the assumption that fewer visitors would come to the secondary sites because, in part, of their limited amenities. 08 [IO-3a]

GGAS is primarily concerned that the DEIR's assumptions are not founded in evidence and that, consequently, the City and managers of the secondary viewing areas will be unprepared to deal with a larger-than-expected influx of visitors. The lack of adequate facilities (such as bathrooms or trash receptacles) or services (including security, law enforcement, and emergency personnel) may create unforeseen impacts to the secondary viewing areas' environmental quality and put visitors at risk. The FEIR must provide a better assessment of a reasonable adaptive management plan to increase facilities and services in secondary viewing areas if the EIR's estimates are found to be inaccurate.

B. The DEIR Fails to Adequately Assess or Mitigate Impacts from Water-based Spectators.

The DEIR estimates that the event will attract 655-1820 boats with up to 18,000 passengers in 2013. (DEIR, at 5.1-9, Table 5.1-2) As with the estimates for land-based spectators, the estimate for water-based spectators appears to be highly speculative.

The DEIR states that the Event Authority will coordinate with the Coast Guard to "regulate" water-based spectators "during event periods." (DEIR, at 5.1-8). The DEIR's use of the word "regulate" is vague because while the term would imply legal regulatory authority (i.e., the ability to enforce laws and enjoin noncompliance), the DEIR does not state that the Event Authority or its agents will be imbued with such power. Moreover, the DEIR fails to identify how this coordination will work and what level of "regulation" will occur. Regulation of maritime traffic arising from the event is essential for minimizing environmental impacts on the Bay. The FEIR must address these issues more fully. 09 [IO-3b, BIU-4, HY-9a]

Our review of the DEIR left us with the following questions on this issue:

O-GGAS2

- Will the Event Authority be responsible for ensuring that water-based spectators are not polluting the Bay with waste, garbage, poorly maintained boats, or invasive, exotic species?
- What regulatory authority will the Event Authority have to enforce laws and regulations?
- What degree of presence (i.e., number of on-the-water enforcers) will the Event Authority, or the Event Authority and the Coast Guard in coordination, deploy?
- Will the Event Authority be patrolling and regulating the waters throughout the period of increased use arising from the
- Will regulation occur beyond the "perimeter" of the race area? It is expected that visitors to the Bay who come for the race will disperse to many points in the Bay, resulting in subsequent environmental impacts. The DEIR does not clearly address this concern. 09 [IO-3b, BIU-4, HY-9a] cont.

The DEIR purports to address Open Water Impacts, but it is extremely vague and fails to cite any data to support its analysis. (*See* DEIR, at 5.14-29) First, the DEIR's authors should have reviewed available data about bird use of the open water and near-shore habitats that are within and adjacent to the Project area. Second, the DEIR should include an analysis of the risk of direct and indirect impacts to birds arising from collisions with spectator boats. Third, the DEIR should include at least some estimate of the amount of human food waste, sewage, and toxic materials that may be dumped into the Bay as a result of the influx of visitors. As it stands, the DEIR is purely speculative and fails to provide the public and decision makers with the information necessary to make informed decisions about the merits and impacts of the Project in this respect.

C. The DEIR Fails to Adequately Assess Impacts to Biological Resources.

GGAS is concerned about the inadequacy of the DEIR's assessment of impacts to Biological Resources. These issues are addressed with reference to the specific sections of the DEIR below:

Section 5.14.1.2 should include information about the current state of the Bay, including estimated percentages of baylands and open water habitat that remains in a natural or semi-natural state. This information is relevant to cocnsidering the dilapidated state of the Bay and the potential for direct, indirect, and cumulative impacts to these areas and wildlife that depend on them arising from the Project. (*See* DEIR, at 5.14-2) 10 [BIU-1]

Section 5.14-6 should include at least a brief bird list of birds that rely on Treasure Island/Yerba Buena Island so that reviewers may better information to assess the potential for impacts arising from the Project.

1. The DEIR Fails to Realistically Assess the Efficacy of Fencing or the Impacts to Biological and Aesthetic Resources Due to Fencing.

GGAS is concerned that the DEIR's reliance on fencing to protect sensitive areas is inadequate. (*See, e.g.*, Mitigation Measure M-BI-1a). First, fences have their own impacts on biological and aesthetic resources, none of which are addressed in the DEIR. Second, the City cannot state for certain that the Park Service will allow fences to be erected within the GGNRA; 11 [BIU-5a]

O-GGAS2

therefore using fences as a mitigation measure is speculative and additional mitigation measures should be identified. Third, GGAS does not believe that the exclusion fencing proposed will be adequate to protect these areas, especially if the areas are not regularly patrolled and violators are cited or otherwise enjoined from engaging in destructive behavior. For example, GGAS does not believe that the fencing proposed in on page 5.14-12 of the DEIR will be adequate. The DEIR addresses impacts at Baker Beach and Fort Baker/Marin Headlands and recognizes them as potentially significant, but relies too heavily on possible fencing, again without a discussion of potential biological or aesthetic impacts arising from the mitigation measures. 11 [BIU-5a] cont.

2. The DEIR Fails to Identify How "Resource Monitors" Will Reduce Impacts to Biological Resources.

GGAS supports the use of trained biologists to monitor impacts before, during and after the event within the Project area. (*See, e.g.*, Mitigation Measure M-BI-1a). However, the DEIR is vague as to how NPS will hire, oversee, train, and pay the biological monitors. GGAS does not believe that the City can commit NPS to retaining, training and supervising monitors a sa mitigation measure in the City's DEIR; as such, the DEIR's reference to biological monitors supervised by NPS is speculative and does not constitute a mitigation measure. Moreover, the DEIR does not state whether the monitors' findings will be made public. At a minimum, the City must commit to providing identifiable funding for biological resource monitoring and to ensuring that the monitors' findings are treated as publicly-available documents for review and study. The FEIR must include a specific plan of how the biological monitors' findings will be incorporated into an adaptive management plan that will be implemented to further reduce or rectify impacts to biological resources. 12 [BIU-5a]

3. Mitigation Measures that Rely on Signage to Reduce Impacts Are Inadequate and Not Supported by Evidence of their Efficacy.

The DEIR presents several mitigation measures that rely on fencing as a means of reducing impacts. (*See, e.g.*, Mitigation Measure M-BI-1c: Protecting the Crissy Beach Wildlife Protection Area (WPA); Mitigation Measure M-BI-2: Signage at Sensitive Natural Community Areas;"No Spectator" Zone on Yerba Buena Island; 5.14-37 Mitigation Measure M-BI-3: Signage at Wetland Sites) Many of these mitigation measures involve property outside the City's jurisdiction, so the installation of such signage is speculative at best. As such, these mitigation measures are of questionable value and the impacts identified in the DEIS must be assessed as if these speculative mitigation measures were not going to be implemented. 13 [BIU-5a]

Perhaps more importantly, people often ignore signs. For example, despite signs at Crissy Field's Wildlife Protection Area asking people to put their dogs on leashes, approximately two-thirds of dog walkers visiting the site leave their dogs off-leash when the snowy plovers are present. (Zlatunich, M. and M. Lynes. 2010. *Western Snowy Plover Monitoring at the Crissy Field Wildlife Protection Area of the Presidio, San Francisco, California.* Available at http://www.goldengateaudubon.org) A very extreme example of open space users ignoring signs at their peril occurred recently in Yosemite Park as three park visitors ignored warning signs at Vernall Fall and fell over to their deaths. (*See* Fimrite, Peter. 2011. *Yosemite: 3 presumed dead,*

O-GGAS2

swept over Vernal Fall, (July 21, 2011) available at http://articles.sfgate.com/2011-07-21/news/29797442_1_vernal-fall-merced-river-mist-trail).

At a minimum, the FEIR must include substantial evidence that signage is an effective mitigation measure. Moreover, the FEIR must include mitigation measures that compliment signs (such as having security or law enforcement personnel in the area that are specifically tasked with protecting sensitive wildlife and habitats). It should not be enough for the City to pay lip service to reducing impacts just by promising to put up signs, especially in areas such as the GGNRA where the City lacks jurisdiction to make such a commitment. 13 [BIU-5a] cont.

4. The DEIR Must Improve Its Assessment of Impacts to the Biological Resources at Alcatraz Island and Propose More Effective Mitigation Measures.

GGAS strongly disagrees with the conclusion that "[t]he extant environment for biological resources suggests that this is an area that could theoretically host an event the size of the America's Cup without breaching disturbance or impact thresholds that plants and wildlife already experience . . . ." GGAS does not see an substantial evidence provided in the DEIR to support this statement. As such, it is conclusory. At a minimum, the DEIR must provide a robust documentation of evidence to support this conclusion. Otherwise, the high-degree of disturbance that would be imposed on the wildlife that depend on Alcatraz cannot be justified just to host a few "VIP parties". Such parties cannot, by any stretch, be characterized as necessary for the successful execution of the Project or any of its objectives. 14 [BIU-5b]

Mitigation Measure M-BI-4e: Protection for Colonial Breeding Birds on Alcatraz is too vague to provide adequate protection for breeding birds on the island. First, it merely states that it will prohibit construction or event activities "near" the breeding birds, but it does not establish a boundary for such activities. (DEIR, at 5.14-40) Moreover, the mitigation measure once again relies on action by the Park Service, which cannot be guaranteed by the City. As such, the mitigation measure is purely speculative and does not provide an adequate assurance that impacts to the breeding birds will be reduced.

5 The DEIR Must Improve Its Assessment of Impact to the Biological Resources at Crissy Field and Proposed More Effective Mitigations Measures.

The DEIR recognizes that impacts at the site may be potentially significant but its proposed mitigation measure, mainly fencing, is wholly inadequate. (DEIR, at 5.14-28-30) The DEIR fails to provide a full picture of the baseline conditions at the site. Currently, Crissy Field is relatively quiet and dark at night, allowing the plovers and other wildlife to rest in relative peace (typically after a day in which they endured a high degree of disturbance from regular visitors to the area). The Project may fundamentally change night time conditions at the site. 15 [BIU-5b]

Mitigation measures must ensure the Snowy Plovers, Mission Blue Butterfly, and other native fauna and flora in the area are adequately protected. As an initial matter, GGAS suggests

O-GGAS2

that an additional mitigation measure include a bond—to be funded prior to the event—that provides funds for (1) the protection of the site throughout the event period and (2) restoration of areas impacted due to spectators or other visitors brought to the area as a result of the races or ancillary events. **At a minimum**, mitigation measures must include fencing, outreach, education and security service capable of citing violators and enforcing regulations.

Moreover, the DEIR should better assess the potential impacts of the proposed mitigation measures. For example, in its recent Dog Management Draft Environmental Impact Statement, the GGNRA recognized that fencing may be inappropriate for off-leash dog areas because of the biological impacts of fencing. The DEIR must consider impacts arising from fences and, as necessary, mitigate for those additional impacts.

GGAS is also not convinced that proposed mitigation measures are adequate or can be fully implemented. For example, Mitigation Measure M-BI-1e: Restrictions on Fireworks and Night Lighting acknowledges that lights will be left on and does not (1) where new lights may be installed, (2) identify current illumination levels in affected areas, or (3) estimate new illumination levels under a change in lighting. We cannot assess the impacts of night-lighting without more complete information about where lights will be installed and how the degree of illumination provided. Promises of "shield" lighting are not adequate as we try to under where and how impacts from lights will occur. Moreover, the mitigation measure does not provide any assurance that fireworks will be kept away from sensitive habitat areas. 15 [BIU-5b] cont.

Mitigation Measure M-BI-4b: Offshore Buffers for Breeding Birds and Snowy Plover promises that the Event Authority will "prescribe and enforce" a 100-year buffer from known breeding colonies and other biological resources, including the Snowy Plovers at Crissy Field. The DEIR does not describe how the Event Authority will implement this mitigation measure, specifically whether it will task security with the job or patrolling the buffer and how the Event Authority will have the legal authority to enforce the buffer. Moreover, the DEIR fails to provide any evidence that the propose 1-yard buffer is adequate for protecting nesting birds. At a minimum, in addition to implementing an adequate buffer (that should be based on available science), the mitigation measures should include a prohibition on the use of horns or emission of other loud noises near sensitive areas, especially near breeding birds. This mitigation measure also states that the air space shall be "restricted" within 1000 feet of these areas, but the DEIR clearly contemplates the use of helicopters and other high-disturbance aircraft within the Project area, without providing any data about the potential impact those aircraft will have.

6. The DEIR Must Improve Its Assessment of Existing Biological Resources on the Open Water of the Bay and Its Assessment of Impacts to those Resources.

As the DEIR acknowledges, the open waters of San Francisco Bay provide vitally important habitat for breeding, rafting, and foraging birds. However, the DEIR fails to provide any concrete mitigation measures to reduce the identified impacts. 16 [BIU-5a]

Impact BI-4 acknowledges that the America's Cup facilities and events will interfere with the movement of native upland wildlife species or with established native resident or migratory

COM-218

O-GGAS2

wildlife corridors or impede the use of native wildlife nursery sites. Unfortunately, none of the mitigation measures identified appear to adequately mitigate these impacts.

For example, Mitigation Measure M-BI-4a: Restrictions on Spectator Craft within Race Course Boundaries is inadequate because it depends in large part on the creation of a Water and Air Traffic Plan with the U.S. Coast Guard. Because the Water and Air Traffic Plan was not included in the DEIR, the public cannot provide an informed opinion about the sufficiency of the plan as a mitigation. Moreover, the mitigation measure provides no information about how impacts to birds on the open water will be reduced after the races conclude and spectator boats begin to disperse.

Mitigation Measure M-BI-4c: Protection for Breeding Birds on Piers and Associated Structures includes a statement that the Event Authority will, to the extent "feasible" avoid demolition of structures during the bird breeding season (March 1 – August 1). First, this mitigation measure provides no standard for "feasibility", which means that the extent to which this mitigation measure is implemented is purely discretionary and its protective value is highly questionable. There is no way to make the Event Authority accountable for the implementation of this mitigation measure. It is, at best, illusory. Moreover, the provision that nests will be "avoided by at least 50 feet" does not appear to be based on any data or other information that demonstrate that avoiding a nest by 50 mitigates impacts or risks to that nest. The FEIR should include a revised version of this mitigation measure that establishes concrete protections for breeding birds on piers and associated structures. Finally, GGAS reminds the City that the destruction of any bird's nest constitutes a violation of the Migratory Bird Treaty Act, for which there is no take permit granted. GGAS intends to monitor nesting birds along the waterfront to ensure that their nests are not taken or destroyed illegally. 16 [BIU-5a] cont.

GGAS is also gravely concerned with the potential for collisions between wildlife and boats, primarily as boats move about at high speed or move to avoid other boats and strike birds. Measure M-BI-12 is remarkably inadequate to address this concern. At a minimum, the FEIR must identify concrete mechanisms for reducing risks to wildlife on the Bay from mariners. It cannot merely rely on educational materials that mariners may receive. Moreover, nothing in the mitigation measure or the rest of the DEIR provides evidence that mariners will actually obey the guidelines or regulations set forth in the education materials described by this mitigation measure.

7. The DEIR Must Improve Its Assessment of the Impacts of Lighting and the Use of Glass Materials on Birds.

As the DEIR acknowledges, artificial lighting can be a powerful attractant to birds. Moreover, glass structures such as wind breaks or plate glass windows can result in collisions that harm or kill birds. (*See, e.g.*, DEIR, at 5.15-41) GGAS appreciates the inclusion of mitigation measures Mitigation Measures M-BI-6a (Bird Sensitive Night Lighting at the Cruise Terminal) and M-BI-6b (Bird-building Collision Avoidance). However, we ask that a monitoring component be built into these mitigation measures to assess their adequacy. If monitoring indicates that the mitigation measures are ineffective, then the mitigation measures should be amended to include additional steps to further reduce the risks of impacts. GGAS is 17 [BIU-5a]

O-GGAS2

happy to work with the City to establish a monitoring protocol and adaptive management plan to address these issues. 17 [BIU-5a] cont.

V. THE DEIR'S CUMULATIVE IMPACTS ANALYSIS IS INADEQUATE.

GGAS does not believe that the DEIR adequately assesses cumulative impacts to birds, other wildlife, and their habitats that will result as a consequence of the Project. As discussed above, the DEIR provides an inadequate baseline of conditions in the Project Area because it does not acknowledge the already-compromised nature of the Bay due to development over the last 150 years. Moreover, by underestimate impacts at land-based spectator sites and on the open water, the DEIR fails to give the read an adequate understanding of the cumulative impacts, especially when considered with other projects in the area (*see* DEIR, Table 5.1-3) and the Bay Area's growing population. 18 [BIU-6]

VI. CONCLUSION

The proposed project will result in significant and irrevocable changes to the San Francisco waterfront and, potentially, to important open water areas in the Bay. We understand the extreme political and public pressure put on the City of San Francisco to host this event. We merely urge the City to fully consider its impacts to the environment and to err on the side of being sensitive to the needs of wildlife and habitats. This requires the City to full identify and study all impacts and to proposed adequate mitigations. 19 [OC-1]

Thank you for this opportunity to comment on these plans. Please feel free to contact me at (510) 843-6551 or via email at mlynes@goldengateaudubon.org to discuss any of these comments and recommendations further.

Best regards,

Mike Lynes
Conservation Director

O-GGNPC2

PARKS FOR ALL FOREVER™

August 25, 2011

Bill Wycko
Environmental Review Officer
San Francisco Planning Department
1650 Mission Street, Suite 400
San Francisco, California 94103

RE: Draft Environmental Impact Statement for the 34th America's Cup

Dear Mr. Wycko:

On behalf of the Board of Trustees and staff of the Golden Gate National Parks Conservancy, we welcome the opportunity to comment on the Draft Environmental Impact Report for the 34th America's Cup.

The Golden Gate National Parks Conservancy is the official nonprofit partner of the Golden Gate National Recreation Area and is dedicated to the preservation and enhancement of this national park. Since its inception in 1981, the Parks Conservancy has raised more than $200 million for this well-loved and well-used national park, including more than $36 million for the restoration of the 100-acre Crissy Field site and the creation of the Crissy Field Center.

The three-year restoration of Crissy Field (1998-2001) from a derelict wasteland into a 100-acre national park gem is the largest shoreline restoration in the National Park system. This transformation created a splendid welcoming "front door" to San Francisco, where its community members connect with San Francisco Bay. Each year, more than 1,000,000 visitors enjoy Crissy Field. This national park site is a staple element of the quality of Bay Area life and a major draw to our visitors. And the qualities that contribute to this fact are only due to our community's philanthropic vision and generosity and the labor of more than 3,000 volunteers who grew and planted more than 120,000 native plants that thrive today in the site's dunes and marsh.

Part of the $36 million provided for the Crissy Field Campaign was devoted to establishing the Crissy Field Center and its environmental education and youth leadership programs. Jointly operated by the Parks Conservancy, NPS, and the Presidio Trust, the Center is a pioneer in multicultural environmental education. The Center partners with more than 100 community-based organizations and virtually every public school in San Francisco and engages school children and youth who have limited opportunity to

BUILDING 201, FORT MASON, SAN FRANCISCO, CA 94123
Tel: (415) 561-3000 Fax: (415) 561-3003 www.parksconservancy.org

experience national parks. This dynamic, award-winning hub of community engagement and education has been recognized as a model across the U.S. and abroad. The Crissy Field Center has served 600,000 school children and young people through its education, leadership, and park stewardship programs.

Crissy Field and the Crissy Field Center were created and are sustained through active, loyal, and generous community philanthropy and on-going volunteer support (more than 14,000 volunteers contributing over 50,000 hours, equivalent to the work of 22 full-time staff over the last decade). This is a remarkable gift, not only to the people of San Francisco and the Bay Area, but also to millions of visitors who have made San Francisco a leading international destination because of unique assets such as Crissy Field.

The Board and Staff of the Golden Gate National Parks Conservancy greatly appreciate the prestige, legacy and economic value that America's Cup 34 will bring to San Francisco. But, with the embrace of Crissy Field and the Crissy Field Center by the community and with the Conservancy's significant investments, we must ensure that they are fully protected. The Environmental Impact Report must commit to specific mitigations related to the America's Cup events during 2012 and 2013, and designated funding for those mitigations before the events. These must include impacts to the site and the Center, impacts on community programs operated at the site, impacts on day-to-day visitors and park users, management costs associated with preparing for and managing very large crowds over repeated days, and wear and tear or damage to the site's facilities and resources. Crissy Field must be protected to the extent feasible and restored to a condition that matches the quality and care that the site represents today. This commitment will honor Crissy Field's extensive and ongoing philanthropic and volunteer investments. 01 [RE-7]

Crissy Field and the Crissy Field Center have had repeated visits from the last three Secretaries of the Interior, the last three Directors of the National Park Service, the Speaker of the House, a California U.S. Senator, more than a dozen members of the U.S. Congress, and numerous foreign dignitaries interested in the benefits of public-private partnerships. The project has received more than 20 local, national, and international awards for excellence, including top awards from San Francisco Beautiful, American Society of Landscape Architects, The Waterfront Center International Competition, and the National Park Foundation.

With this letter we provide our comments, grouped by areas of special concern: the full 100-acre Crissy Field site, the Crissy Field Center, and the Crissy Field Overlook.

The Parks Conservancy welcomes the opportunity to work with the event organizers and the National Park Service on solutions to these concerns, to ensure that the 34th America's Cup is very successful and that the Bay Area's national parks remain the vibrant and accessible places that the people of our region love.

Crissy Field

Restoration of Crissy Field's 100 acres encompassed a complex and ambitious set of natural and historic restoration objectives following strict stipulations defined in the project's 1996 Environmental Assessment. The following section identifies the site components that will be most affected by the crowds and activities projected for Crissy Field during the America's Cup events during 2012 and 2013.

The Airfield

The Crissy Field historic airfield was reestablished with a unique native grass not found in most parks. The 28-acre field was restored this way to reflect its historic appearance and to adhere to the strict NPS requirement to use only native plant species at Crissy Field. The grasses are Pacific hair grass (*Deschampsia*) and red fescue (*Festuca rubra*), both native California bunch grasses, which are maintained by a specially designed irrigation system. For the restoration, contracts were signed with specialty growers years in advance to produce sufficient seed for planting these 28 acres. The specialty seed was expensive to obtain and plant and takes longer than typical horticultural grasses to grow to maturity. At the time of its planting, the airfield was the largest monoculture of native grasses in California. 02 [BIU-2]

Comment: The DEIR recognizes the heavy impact huge crowds would have on these native grasses. Although DEIR (5.5-93) states that "landscape will be restored to its current condition," the unique nature of the landscape is not acknowledged. Replanting the airfield will be an expensive and long-term project. The irrigation system will also be vulnerable to damage from heavy use by trucks and spectators. The specialized nature of these facilities must be acknowledged in advance, and adequate dedicated funds must be set aside prior to AC34 events.

Airfield Paths and Substructures

The DEIR acknowledges that increased use could damage trails and pathways, restrooms, and other recreation-support facilities. The paths and the adjacent reinforced areas on the airfield may not be able to support the weight of the trucks, installations, and booths that are described in the DEIR. 03 [GEN-2]

Comment: These existing site improvements must be protected, and replacement of the paths and reinforced areas of the airfield would be costly. The specialized nature of these facilities must be acknowledged in advance, and dedicated funds must be committed and set aside prior to AC34 events.

AC34 Visitor Impact – Safety

Crissy Field was not designed or constructed to accommodate the huge numbers of spectators predicted in the DEIR. The Crissy Field EA stated that the airfield is for "small- to medium-sized festivals and events," defined by the NPS as events with fewer than 1,000 participants. More than 1,000,000 people use Crissy Field annually, but this use is spread over the entire year.

Comment: Huge crowds repeatedly using the site over a period of several months would have major negative impacts. A decade of experience with large events such as Fleet Week's Blue Angels airshow has shown that crowds intent on getting a better view of an event on the bay ignore signs, jump fences, stand on and break fence posts and trash cans, move and break heavy barricades, break tree branches, and trample dune plants. 04 [PS-5]

Only Park Police and NPS rangers are authorized to do crowd control at Crissy Field, and volunteers have been completely ineffective at resource protection during events. For the safety of visitors and the built and natural resources at Crissy Field there must be an adequate force of trained, professional law enforcement officers as defined by the NPS. Absent an effective protection strategy, these resources will be subject to severe damage, undoing years of work. Protection of these resources can be achieved only through adequate funding for the necessary protective devices and enforcement services.

AC34 Visitor Impact – Restrooms

As part of the Crissy Field restoration, a new restroom facility, including outdoor showers, was built at Crissy Field East Beach, and additional restroom facilities were installed in an existing building at the west end near the Warming Hut. A visitor's first choice is to use permanent facilities even when portable toilets are made available on site.

Comment: Restroom facilities will experience "wear and tear" well beyond normal use during the AC34 events. This deterioration must be assessed and compensated. The DEIR (5.11-43) only states that there will be "Post-Event Repair…which could include trash collection, facility repairs, restroom maintenance…" The AC34 commitment must be made to provide comprehensive repair to all impacted facilities, restoring them to the condition that existed prior to the event. The inevitable degradation of these facilities must be acknowledged in advance and adequate dedicated restoration funds must be committed and set aside prior to AC34 events. 05 [RE-7]

AC34 Visitor Impact – Picnic Areas and Landforms

The DEIR cites the picnic area near the Warming Hut as an area of special concern to land management agencies (5.11-43). There is also a large picnic area at East Beach with new custom tables and trash/recycling receptacles. During large events, spectators have damaged tables, benches, and other site furnishings by standing on them. Both picnic areas 06 [RE-7]

are defined by sculpted and turfed landforms. The landforms provide visual and wind protection for the picnic areas. Large events have motivated motorists to move temporary barricades and park on top of them to get a better view, causing structural and surface damage to landforms, which are difficult to restore and re-turf.

Comment: For the safety of visitors and protection of built amenities at Crissy Field there must be an adequate force of trained, professional law enforcement officers on duty during the events. Picnic tables, landforms, and all site furnishings must be returned to their pre-event condition by acceptable repair or replacement. The inevitable serious impact to these amenities and built landscapes must be acknowledged in advance, and adequate dedicated funds must be set aside prior to AC 34 events. 06 [RE-7] cont.

AC34 Visitor Impact – Golden Gate Promenade and Crissy Field Pathways

The 1.5-mile Promenade was constructed as part of the Crissy Field restoration. In compliance with the EA and the sustainability standards required by the NPS, the surface is composed of a local crushed rock material, "Felton Gold," from the Santa Cruz Mountains with an innovative binder material, a natural pine resin (rather than a petroleum product) that is a natural by-product of paper production. Additionally, pathways and boardwalks connect the Promenade with the beach through designated gaps in the dunes. Along one of these, near the west end of the Crissy Field marsh, is a special seating area designed and built to honor Walter Haas, Jr. 07 [RE-7]

Comment: The same high quality, sustainable materials must be used in the repair/replacement of the Promenade and adjacent and connecting pathways and boardwalks. The serious impact to the Promenade, pathways, and boardwalks must be acknowledged in advance, and adequate dedicated funds must be committed and set aside prior to AC34 events.

AC34 Visitor Impact – Native Plants

Over 120,000 native plants thrive in the dunes and marsh areas of Crissy Field. Each of these plants was propagated in Parks Conservancy native plan nurseries from seed collected in the park. More than 3,000 volunteers cared for the plants in the nurseries and out-planted each seedling individually. Today thousands of volunteers care for the plants at Crissy Field each year as a stewardship corps dedicated to this park site. 08 [BIU-5a]

Comment: Tens of thousands of specially grown native plants thrive in the raised dunes between the Promenade and the beach. Although fenced, these raised dunes offer a better view of the bay for visitors willing to ignore signage and fencing. Replacing these plants would take years of work and thousands of volunteers engaging in seed collection, propagation in nurseries, planting, and tending until maturity. To minimize damage, there must be an adequate force of trained, professional law enforcement officers at

Crissy Field during all events as defined by the NPS. Funds also must be provided sufficient to restore dunes and replace lost vegetation. 08 [BIU-5a] cont.

AC34 Visitor Impact – Impact on Regular Users

As the DEIR acknowledges, AC34 activities in both 2012 and 2013 will bring throngs of visitors to Crissy Field, making access by regular users very difficult. Local users come often to Crissy Field, many daily, to find peace and inspiration, to exercise, and to socialize.

Comment: Every effort must be made to allow access to the regular users of Crissy Field. 09 [RE-1]

Interim Condition of Site

The DEIR says that following each of the 2012 and 2013 events, temporary structures will be removed between races and the venues will be restored to their pre-project condition.

Comment: AC34 spectators and event infrastructure in *both* 2012 and 2013 will add extraordinary numbers to the site's current annual visitors, so we ask that the EIR reference specifically the condition to which turf, restrooms, picnic areas and other visitor amenities will be restored in the period *between* the 2012 and 2013 events. Will major damage be repaired twice, after the 2012 events and again after the 2013 events? If repairs are limited after the 2012 events, the site would remain in a deteriorated condition, with degraded and damaged facilities and damaged or destroyed vegetation. Trails, walks, and Crissy Field proper may be muddy and puddle-ridden during the winter and by its condition, discourage use even in fair weather. What will be the level or repair following 2012 events? How long will the repair take to return the site to a reasonable state? Will there be compensation for operating the park in a deteriorated condition? 10 [GEN-2, PD-6]

Crissy Field Center

The Crissy Field Center is situated at the eastern edge of Crissy Field, directly between the two main venues for AC34 in both 2012 and 2013. The Center's summer schedule brings up to 400 children *each day* to the Center for NPS educational programs and summer camps. The Center's programs are an integral part of the offerings of many partners, as well, including the YMCA, San Francisco's Recreation and Parks programs, and dozens of community groups and schools. These programs have been developed specifically to use Crissy Field sites and resources. Thanks to philanthropic support, 40% of children in Crissy Field Center summer camps are from underserved communities and attend on scholarship. Summer camps and other summer programs also are significant

revenue sources for the Crissy Field Center, supporting $125,000 of the Center's annual budget.

Crissy Field Center – Safety

Comment: The ability of the Center to function effectively during the months of AC34 events, including preparation and post-event repair activities, is questionable. At best, programs may need to be curtailed or relocated. This would result in sharply reduced programs available to the communities served and, if the Center is temporarily housed elsewhere, would require restructuring of the programs to make use of the natural resources that might be available at the alternate site. Access to the Center and to the sites it uses in its program would be adversely affected. Most students arrive by MUNI or specially assigned buses. With large crowds and congestion, concerns arise over safe access to the Center for the students and their ability to continue to safely walk to Crissy Field beaches, marsh, and additional program sites in the Presidio. The EIR must address these specific concerns and identify how the Crissy Field Center will be able to continue providing the number and quality of programs offered currently. Ways of maintaining the Center's valued role in the community must be identified, funded, and implemented before AC34. 11 [TR-3b]

Crissy Field Center – Program Quality

Comment: AC34 venues, such as the Hospitality/Exhibition/Media site adjacent to the Saint Francis Yacht Club and marina (Figure 3-21, Proposed Crissy Field East Venue Plan), will draw major crowds with related bus and truck traffic, create construction noise, and use amplified sound, generators, and media elements. Experience has shown that amplified sound from this area is heard inside the Center. In addition, the constant westerly wind at Crissy Field carries sound from the airfield to the Center location at East Beach. The DEIR does not account for noise impacts on this school location, a sensitive receptor. What assurance is there that the Center be able to continue offering quality programs unimpeded by noise and other disruptions? 12 [NO-1, NO-2, NO-3, NO-6]

Crissy Field Center – Loss of Revenue

Comment: If access, safety issues, noise and other impediments make it impossible for the Center to operate during event times – which coincide with the Center's peak program times – how will the revenue and program loss to the Center be compensated? The Center's annual budget is $1.8 million, supporting the work of 18 staff. The staff, representing 11 ethnicities and speaking a total of seven languages, average more than six years working at the Center and have specialized expertise in education and the environment developed over 10 years of operation. Loss of this highly trained and effective cadre would be devastating to the Center's programs and the communities benefiting from the programs. The staff cannot be laid off or put on unpaid leave and be 13 [GEN-2]

expected to return when things calm down. Without thoughtful planning and investment, there is a very real possibility that the Center and its programs will suffer irreparable harm. 13 [GEN-2] cont.

Crissy Field Overlook

The Crissy Field Overlook is located on Lincoln Avenue, within the jurisdiction of the Presidio Trust. It was paid for by $1 million in philanthropic funds raised by the Parks Conservancy. Renovated in 2008, it is part of the Crissy Field view shed and is referenced in the DEIR (5.3-19) as the "best view of the bay from two small overlooks on Lincoln just above Crissy Field." Given its splendid view of the bay, large crowds can be expected to use this site during AC34. 14 [BIU-5a]

Comment: The native plants and custom site furnishings can be damaged by crowding, trampling, and misuse. This overlook is part of Crissy Field and must be protected with the same care as the 100 acres below it. Potential impacts to this newly completed overlook must be specifically acknowledged in advance, and adequate dedicated funds committed and set aside prior to AC34 events.

Summary and Request

It is our strong conviction that the America's Cup organizers must ensure that the resources, public use, and community benefits of this national park are treated with great care and stewardship. Our key concern is that the DEIR does not define how impacts will be mitigated and what resources will be specifically committed for that purpose. The community investment in this site must be recompensed.

The Board and staff of the Golden Gate National Parks Conservancy request that:

- Public safety, security and access at Crissy Field is ensured;
- Crissy Field is protected as a vital community resource;
- The vitality and financial stability of Crissy Field Center's education programs and ongoing volunteer programs are preserved;
- The mitigation measures and responsibility for funding and implementing those measures for Crissy Field and other affected national park sites are clearly and specifically defined;
- The National Park Service is given a central role in developing the Park Event Operations Plan;
- Dedicated financial resources are set aside for event preparation and management, crowd and traffic control, and post-event repair and mitigation prior to the beginning of each year's AC34 events;

15 [GEN-1, GEN-2, GEN-3]

- The post-2012 refinement of events planning for 2013 is thorough, takes into account the much larger crowds expected in 2013, and includes an adequate dedicated financial fund set aside for mitigation before the beginning of 2013 activities.

San Francisco Bay and its surrounding parklands will help make the 34th America's Cup a memorable and historic event. We simply call for measures that will protect Crissy Field and the national parks that our community has worked so hard to create and to care for. Together we can ensure a positive legacy for America's Cup while protecting the Bay Area's beloved national parks. 15 [GEN-1, GEN-2, GEN-3] cont.

Direct responses to this letter can be addressed to Doug Overman, Deputy Director of the Golden Gate National Parks Conservancy at (415) 561-3025 or doverman@parksconservancy.org.

Sincerely,

Lynn Wendell	Andy Schilling	Greg Moore
Co-Vice Chair	Co-Vice Chair	Executive Director
Board of Trustees	Board of Trustees	

cc: Senator Dianne Feinstein
Senator Barbara Boxer
Democratic Leader Nancy Pelosi
Ed Lee, Mayor, City and County of San Francisco
David Chiu, President, Board of Supervisors, City and County of San Francisco
Mark Farrell, Supervisor, District 2, City and County of San Francisco
Frank Dean, General Superintendent, Golden Gate National Recreation Area
Craig Middleton, Executive Director, Presidio Trust
Craig Thompson, CEO, America's Cup Event Authority
Mark Buell, Chair, America's Cup Organizing Committee

Addenda:

1. List of the Board of Trustees, Golden Gate National Parks Conservancy
2. Crissy Field Center Program Reach Map
3. Crissy Field Center: List of Community Organizations Served

O-GGNPC2

Golden Gate National Parks Conservancy
Board of Trustees

Officers

Mark W. Buell (Chair)
Civic Leader
San Francisco

Alexander H. Schilling (Vice-Chair)
President, Union Square Investment Company
San Francisco

Lynn Wendell (Vice-Chair)
Civic Leader
San Francisco

David Courtney (Treasurer)
Chief Executive Officer, JiWire, Inc.
San Francisco

Michael R. Barr (Secretary)
Partner, Pillsbury Winthrop Shaw Pittman LLP
San Francisco

Trustees

Besty Eisenhardt
Civic Leader
San Francisco

Randi Fisher
Pisces Foundation
San Francisco

Jessica Galloway
Civic Leader
San Francisco

John Gamble
Managing Partner, Allen Matkins Leck Gamble Mallory & Natsis LLP
San Francisco

Sally Hambrecht
Civic Leader
San Francisco

Linda Howell
Civic Leader
San Francisco

Patsy Ishiyama
Civic Leader
San Francisco

Martha Kropf
Civic Leader
San Francisco

N. Colin Lind
Managing Partner, Blum Capital Partners
San Francisco

Philip Marineau
Operating Partner, LNK Partners
San Francisco

John E. McCosker, Ph.D.
Chair, Aquatic Biology
California Academy of Sciences
San Francisco

Robert Morris
Managing Director
Goldman Sachs Group Inc.
San Francisco (Retired)

John Murray
Chief Information Officer, Genworth Financial Wealth Management
Pleasant Hill

Jacob E. Perea, Ph.D.
Dean, Social Justice Initiatives
San Francisco State University
San Francisco

Rob Price
Co-Chairman & Creative Director
Eleven, Inc.
San Francisco

Staci Slaughter
Vice President, Marketing
San Francisco Giants
San Francisco

Michael Willis
Principal, Michael Willis Architects
San Francisco

Liaisons

Charlene Harvey
(Board of Directors, Presidio Trust)
Civic Leader
San Francisco

Julie Parish
(William Kent Society)
Landscape Designer
San Francisco

August 2011

COM-224

O-MAS

Marin Audubon Society

P.O. Box 599 | Mill Valley, CA 94942-0599 | marinaudubon.org

August 25, 2011

RECEIVED
AUG 26 2011
CITY & COUNTY OF S.F.
PLANNING DEPARTMENT
M.E.A.

VIA FAX AND US POSTAL SERVICE
Bill Wycko, Environmental Review Officer
San Francisco Planning Department
1650 Mission St., Suite 400
San Francisco, CA 94103

RE: AMERICA'S CUP DRAFT ENVIRONMENTAL IMPACT REPORT

Dear Mr. Wycko:

The Marin Audubon Society appreciates the opportunity to comment on the Draft Environmental Impact Report for the America's Cup Races. Our comments focus on potential impacts to wildlife and wildlife habitat particularly on Marin County lands and on the bay. Because of inadequacies of the document, we recommend that the DEIR be re-released as a draft to allow for more complete description of the various project components, impacts and mitigation measures.

Generally, we found the DEIR description of the project to be lacking in detail and clarity. As currently presented, there is insufficient information to enable an adequate understanding of the project and to evaluate its potential impacts. Impacts are poorly defined. Many of the proposed mitigation measures are insufficient to reduce the potential impacts to less than significant levels.

An overall mitigation deficiency is the failure to identify enforcement of existing regulations and laws as a necessary measure to mitigate many potentially significant adverse impacts. Many of the mitigations rely completely on the voluntary compliance of spectators, which is simply unrealistic and, therefore, potentially harmful to the Bay waters and resources. We recommend that a Monitoring and Enforcement Program be prepared and implemented to addresses this major inadequacy and ensure that the water quality, wildlife and other natural resources of the Bay are adequately protected. 01 [IO-1a, IO-1b, IO-4b, BIU-1]

In addition, the discussion should address, and protections should be provided for, a broader array of wildlife species. The International Migratory Bird Treaty Act covers projections for migratory birds and the most recent *State of the Birds* report defined the declining state of the world's seabirds. Many of the species addressed by these documents use the waters, islands and shorelines of San Francisco Bay for roosting and foraging. Impacts on these species should also be considered.

San Francisco Bay is important not only as an overwintering area, but as a refueling stopover during migration. The DEIR should provide information on birds that may be moving through the bay on migration during the time of the Americas Cup events. Fortunately the timing is early for waterfowl return, however it is not for shorebirds. Many shorebirds are back in the Bay by mid-August. Shorebirds use rocky shorelines and built features, along coastlines as high tide refuges. In Sausalito, for example, shorebirds roost on remnant pilings and planks. The DEIR should address shorebird habitat locations and the potential impacts of the project on them.

DEFICIENCIES IN THE PROJECT DESCRIPTION 02 [PD-4]
We understand from attending the GGNRA Open House, that there has been a change in the boundary

for the race itself and that the boundary is now smaller. The revised EIR should show and describe the revised boundary. 02 [PD-4] cont.

Alcatraz - The description sounds like the proposed use at Alcatraz would be minor and benign: hosting corporate and private functions in the cell house, and weather monitoring and broadcast equipment on the grounds. A more complete description is needed. How many people could be present for these specific uses? Just because a function would be in the cell house does not mean the people would stay there. What would prevent them from wandering away from that building?

What restrictions would be placed on people moving about the island, particular at night? What enforcement measures would be provided? Where would the communications equipment be placed? How many people would be required to operate the broadcast equipment, and during what times would they be present? 03 [BIU-1, PD-6]

Just because the uses are limited, does not mean the impacts would be. We remember not too many years ago, Disney leased the island for a "private function" with disastrous consequences for the nesting and roosting water birds that use the island. Comparing the impacts of 1.4 million visitors a year at Alcatraz now is not really comparable to America's Cup visitors because existing visitors come to see the view and are spread out over time and place. The America's Cup visitors will be there primarily to celebrate and their behavior would need to be supervised by staff.

While Pelagic and Brandt Cormorants that nest on Alcatraz Island may not be special status species, breeding colonies for colonial nesting birds are considered state special status. Furthermore, Alcatraz is a unique nesting colony in San Francesco Bay and along the coast of California. All of the breeding and roosting areas on this Island must be afforded the highest level of protection.

Marin County locations are considered secondary viewing areas and would not have programed event amenities, event information or hospitality attractions sponsored by the Event Authority. These factors and the distance from the race (more than one mile) lead the EIR analyses to the opinion that these would not be desirable viewing venues. While they may not be considered desirable, the projected influx of spectators could overwhelm trample vegetation as well as impact wildlife in the Marin locations. Spectators could use binoculars and scopes to view the races from these far distances.

Fort Baker and Cavallo Point - The description simply states that the proposed hospitality venue at this location would be used exclusively for housing corporate and private functions along with TV and associated equipment. Again, how many people would be expected to be present for the corporate and private functions? As this is an open area, what would stop People from descending on the site to view the race? Likely viewing locations would be the bluff above the marina and near the mission-blue butterfly habitat. 04 [IO3a, IO-3b]

The waters of Fort Baker and rocky shorelines under the Golden Gate Bridge are locations where many pelagic species rest and feed. How would these habitats and species be protected from disturbance by visiting boaters? There should be a protection zone along the shoreline in this location.

While much of the upland vegetation in some areas of the Fort Baker/Cavallo Point is non-native, the shoreline bluffs are habitat for the mission-blue butterfly and much of the woodlands vegetation is native and supports native woodland species. No removal of native vegetation should be permitted for uses associated with the America's Cup Races. Current post and cable fencing is inadequate to contain the large increase in visitors.

Marin Headlands - Similar to Fort Baker, pelagic bird species rest along the shoreline and large rafts are often seen in the waters off the Marin Headlands. How would these species and their use of the bay waters for resting be protected from disturbance by boaters? Protection of mission-blue butterfly habitat is a high priority in the Headlands as well.

Angel Island - Describe the shoreline of Angel Island and species that depend on the island. What impact would the thousands of visitors that could be attracted to this small island have on its vegetative habitat, wildlife species and shoreline? Several species of special concern are mentioned in the DEIR (a mole and bat). No native vegetation should be allowed to be removed. 04 [IO-3a, IO-3b] cont.

Sausalito, Tiburon - Spectators are likely to gather along the shoreline of these cities. What shoreline vegetation and resources could be impacted by spectators?

How has the number of spectators been estimated on table 5.1.1. It may be a significant underestimate as currently Sausalito on a busy weekend attracts 3,000 visitors and that is the number projected during the races.

SPECIFIC IMPACTS AND MITIGATION MEASURES

Mitigation M-BI ia Mission Blue Butterfly Habitat
No fencing or fence augmentation is recommended to protect mission blue butterfly. The effectiveness of the proposed higher fencing with additional cabling or wire mesh backing and signs at frequent intervals, is questionable. While those improvements would limit impacts, some people jump fences and many people ignore signs. Monitors are only proposed for the areas of greatest spectator density and they would not have enforcement authority. It is our experience that many people ignore suggestions to move. We recommend that enforcement staff be available to back-up the monitors.

M-B1-1b Endangered Plants
The project sponsors promise to protect endangered plants, however, the strategy has not been defined. It is not possible to evaluate the effectiveness of the strategy unless is described in the DEIR. The endangered plant protection strategy should be described in the next version of the DEIR. 05 [BIU-5b]

M-B1-1d Offshore Protection Area
Buffer zones are described at Chrissy Field and Alcatraz. Off-shore habitats is also warranted to protect roosting birds at locations along the Marin shoreline. The DEIR should address all impacts to roosting and rafting birds that could be disturbed not just special status nesting birds.

M-B1-1e Fireworks and Night Lighting
The focus of this mitigation is extremely limited - only to protect snowy plover.
The DEIR should address the locations where fireworks are planned or could occur, the species that could be impacted and how these impacts could be avoided.

M-B-2 Native Upland Habitats
The Marin Headlands is indeed a location where people could descent short distances from the paved road into native habitat. Signage is proposed, but it is determined to be "impractical" to fence the entire area. The discussion on page 5.14-33 only offers mitigations for upland habitats other than serpentine habitats on Angel Islands and native habitats at the Marin Headlands. Enforcement is needed to ensure native upland habitats are protected. 06 [BIU-5b]

B1-3 Wetlands and Navigable Waters
Wetlands on Angel island and other places are proposed to be protected by "keep out" signs. Again, signs are easily ignored. Having enforcement staff available is essential. 07 [BIU-5a]

B1-4 Movement of Wildlife
This section addresses potential impacts to rafting birds, but again only special status species are discussed. The DEIR dismisses significant impacts on rafting birds as being "likely limited," with the possible exception of impacts from helicopters. We disagree. The discussion should address the possible presence of rafting birds and impacts on these species should they be present during the race periods. Helicopters as well as the many spectator boats would impact any rafting diving birds should any be present.

A marked 1000-yard offshore buffer marine protected zone is planned for around Alcatraz with trained boat-based resources monitors along with a detailed "notice to mariners" is a good beginning, but monitors can only monitor. It is essential that there be staff with authority to implement enforcement actions present at all times on the water and on the island.

The DEIR dismisses significant impacts on rafting birds as being "likely limited," with the possible exception of impacts from helicopters. We disagree. The discussion should address the possible presence of rafting birds and impacts on these species should they be present during the race periods. Helicopters as well as the many spectator boats would impact any rafting diving birds should any be present. Enforcement staff should patrol the Bay waters. 08 [BIU-5a]

MB1-4d Colonial Breeding Birds
Closure signs are important as recommended in this measure but are insufficient to ensure people would not attempt to enter breeding and roosting colonies. The potential for impacts to nesting and roosting birds from people climbing down cliffs on Alcatraz should be addressed. People in a "partying" state do not always behave responsibly. Enforcement staff presence is essential.

Bird nesting and roosting also occur on small jagged outcrops along the shore of the Marin Headlands. These should be protected by buffers.

M-B1-4c Breeding on Piers and Structures
Any construction during breeding season should be required to avoid disturbing nests and nest areas.

Mitigation Measure M-LT–B1a Upland Biological Resources
Pre-project surveys for nesting birds are proposed if ground disturbance or tree removal is scheduled. There is no discussion of possible removal of trees. The discussion should state the species, the number of trees and the location of the proposed removal as well as mitigation ratios for replacement trees should any loss be unavoidable. We oppose any removal of native trees. 09 [BIU-4]

All buildings should comply with standards in San Francesco Safe Building Guidelines to avoid bird strikes.

There should be an analysis of the potential impacts of spectator viewing stands/platforms. An analysis of the potential impact of these viewing stands on native vegetative upland habitat from construction, covering, trampling etc, should be provided. 10 [BIU-4]

Cumulative Impact
The analysis evaluates that all impacts to Upland Resources would be less than substantial on special 11 [BIU-6]

status species, sensitive natural communities, wildfire movement etc. Is this the same as less than significant? This analysis assumes complete compliance with signs and fencing, which is unrealistic and unachievable. Even one infraction at Alcatraz could, and has in the past, have significant adverse impacts on the colonial nesting bird colony. We emphasize that enforcement is essential. 11 [BIU-6] cont.

Furthermore, the suggestion of taking credit for existing marsh restoration projects, particularly the South Bay Salt Ponds, to offset impacts of this project is not appropriate or justified. Any mitigation for habitat lost or otherwise adversely impacted by this project should be provided by this project.

Marine Resources
The Marine Wildlife Entrainment section (page5.14-88) discusses CDFG issuing a "take" permit. California endangered species law does not provide for issuing take permits - only federal ESA does. CDFG only has the ability to deny permits. 12 [BIM-3b]

How much total water and new coverage of the Bay water would occur from construction of the various on-water facilities?

Impacts due to shading from floating docks anchoring piles, wave attenuator and barges are addressed as temporary in nature. A recent Chronicle article, however, revealed an agreement that would allow permanent mooring of yachts at Rincon Basin. The adverse impacts of the construction and ongoing use of such a facility should be addressed.

M-B1-11a Pile Driving Noise
The safest mitigation for this and all impacts is avoidance. Is there a window during which pile driving could occur and not impact special status fish? If so, the applicants should be required to work in this time period. 13 [BIM-5b]

B1-13 Impact to Eelgrass
Of particular concern is the protection of the eelgrass beds along Richardson Bay from boat impacts. Eelgrass is particularly vulnerable to boat propeller, anchors and anchor chains.

There are two eelgrass areas of particular concern in Richardson Bay: in the Audubon-managed waters and along the Sausalito shoreline near Dunphy Park, which Marin Audubon attempted to purchase several years ago. The latter beds are marked with buoys and No Anchorage signs. Even with this marking, these beds are currently being damaged and degraded by moored boats. The beds in the waters managed by California Audubon are only minimally marked during months the race will be occurring. The influx of boaters will increase that risk to eelgrass near the Richardson Bay Sanctuary and throughout Richardson Bay Effective measures to prevent damage during high boat activity of the America's cup races must be ensured These measures should include improved instructional signs, barriers, and monitoring and enforcement staff. 14 [BIM-4a]

The proposed mitigation for eelgrass impacts, and many other impacts, is a Visiting Mariners Information packet which would include actions to avoid impacts to marine resources, the location of services etc. The DEIR claims that the advice in the Visiting Mariners Information " would either avoid or limit disturbance to Central Bay eelgrass beds by visiting boaters."

While providing the Mariner Information packet is important, it is not sufficient to reduce impact to eelgrass beds to less than significant. Providing information is important, but in no way ensures boaters will abide by the information, or even read or understand the restrictions. All eelgrass beds should be cordoned off and clearly signed "No entry - sensitive eelgrass habitat." Mariner Information needs to be

in multiple languages. A monitoring and enforcement program should ensure that there are enforcement staff to stop any violations and impose penalties.

With eelgrass you don't get a second chance. If grass is destroyed by propellers or other means, it is gone until it grows which may be years later or never.

14 [BIM-4a] cont.

B1–16 Invasive Marine Species Control
We agree that an Invasive Marine Species Control Plan is important and agree with the provisions recommended for inclusion in the plan. The potential for introduction of non-native species from hull fouling, anchor chains, anchors, bilge water, drains and other means from visiting boats would be exacerbated by the increase in the numbers of boats. The recommendation for dealing with this potential impact, however-- regular vessel maintenance, antifouling paints, frequent hull inspections and maintenance-- are all reasonable, however, would come too late unless the Visitor Information packet were provided to boaters in advance and there is some way to check that the necessary maintenance was performed.

The DEIR should explain when these Information Packets would be distributed and how. Is there any way of requiring that boats undergo maintenance prior to entering the bay?

15 [BIM-8a]

WATER QUALITY
To accommodate mooring of boats, dredging of 169 cubic yards of sediments from along the San Francesco Shoreline is anticipated. This material should be characterize prior to preparation of the EIR and the results presented. What upland disposal are is anticipated? What other options are being considered?

We are concerned about potential water quality degrdation from violations of water quality standards or waste discharge requirements that could result from dredging, discharges, bilge water discharges, oily water discharges, ballast water discharges, hazardous material discharges, sewage discharges and littering into the bay from race related and spectator boats and on-land littering and other uses.

As described on page 5.B-12, the Visiting Mariners Information is relied on to address potential impacts from the "many of the non-resident mariners, including those on international visiting vessels, (who) would potentially be unfamiliar with US and California water quality and boating regulations." Again, simply because the Visiting Mariners Information is provided to visitors does not mean visitors will read it, understand, or comply with the regulations.

16 [HY-4, HY-7]

MONITORING AND ENFORCEMENT PROGRAM AND WASTE MANAGEMENT PLAN
Unless a comprehensive Monitoring and Enforcement Program is developed and implemented, there is no way it can be claimed the potential water quality impacts are reduced to a less than significant level. The Monitoring and Enforcement Program should ensure that there is adequate oversight of boating and on-shore activities in marinas and of spectators on-land, and ensure that there is prompt enforcement of water quality laws and regulations, and penalties are imposed and other actions taken when warranted. Boat maintenance activities in marinas also need to be monitored and possibly enforced. As discussed earlier, the Enforcement Program must also ensure protection of wildlife and wildlife habitat in the Bay and along its shoreline.

According to the discussion on page 5.16-67, the Coast Guard has the primary oversight responsibility for implementing domestic laws and international conventions applicable to vessels. What other agencies have the authority to implement state and local laws? The Marin County Sheriff's department has equipped, ocean-going vessels. Will there be funding for that agency to take part in the monitoring and enforcement?

17 [HY-4, HY-9a, HY-9c, HY-9e]

It is highly doubtful that local agencies have sufficient personnel to adequately monitor the increased on-boat and on-land spectator activities. The DEIR should address how many more monitoring and enforcement staff would be needed to adequately enforce the laws and protect the Bay with at least 2,280 spectator boats on the bay and additional visitors on-land. How these resources would be provided, i.e. funding, should also be discussed.

There seem to be many laws and regulations requiring boaters to avoid discharging untreated sewage or even treated sewage into No Discharge Zones, displaying Garbage Disposal Placard and carry a Waste Management Plan where applicable. The discussion even acknowledges that there would be "an increased burden of enforcement due to the increased number of boats...." (P. 5.16-68) The Visiting Mariners Information, however, is simply not enough to be relied on to reduce the potential water quality and other impacts to less than significant.

A Waste Management Plan is proposed and is intended to assure adequate recepticals for litter and service levels to prevent litter and other on-shore spectator activities. Spectators congregating in large numbers on land could contaminate the waters of the Bay, if adequate sanitary facilities are not provided and used. Sufficient on-shore sanitary facilities for public use at locations where spectators will congregate and pump out stations in marinas.

Information on the sediment analysis that is being conducted to determine the suitability of the sediments for disposal in the Bay should be presented in the DEIR for review.

17 [HY-4, HY-9a, HY-9c, HY-9e cont.

CONCLUSION
In conclusion, the Americas Cup is a unique opportunity to showcase San Francisco Bay as the wonderful resource that it is. Those resources should not be damaged or destroyed in the process.

Sincerely,

Phil Peterson, Co-Chair
Conservation Committee

Barbara Salzman, Co-Chair
Conservation Committee

Mr. Bill Wycko, Environmental Review Officer
San Francisco Planning Department
1650 Mission Street, Suite 400
San Francisco, CA 94103

MARIN CONSERVATION LEAGUE
Protecting Marin Since 1934

August 25, 2011

Re: Planning Department Case #2010.0493E: AC34 Draft EIR

Dear Mr. Wycko:

The Marin Conservation League has monitored projects with impacts on Marin for 77 years. We recently reviewed the DEIR for the Americas Cup 34 for adequacy in addressing issues potential impact to Marin. Issues of specific concern include: water quality, impacts on wildlife and rare plants, and transportation and circulation.

Water Quality

The potential impact of large numbers of boats from other parts of the world importing undesirable organisms in the Bay is tremendous. The EIR states that it should not be a problem if current laws and regulations are followed. The question is whether the agencies responsible have the capacity to monitor the influx of boats. How many people would be needed to inspect and enforce laws and regulations for the anticipated number of boats? Do the agencies have that capacity? 01 [HY-9a]

The number and locations of pump-out stations is critical. Are they distributed around the Bay with adequate access? We are pleased the instructions are going to be in a variety of languages to assure operators of visiting boats will understand regulations. 02 [UT-4, HY-9c]

Biological Resources

The Bay Area hosts a variety of wildlife and protected plants, some of which are in the Bay itself. Eel grass beds will be identified in the literature for visiting boats, but, again, enforcement will be critical to keep anchors and anchor chains from ripping out great swaths of the eel grass. The regulations are only as good as the enforcement, especially with people not familiar with the Bay. Who will monitor where boats moor? 03 [BIM-4a]

The DEIR recognizes the harbor seals and harbor porpoises as common occupants of the Bay, somewhat accustomed to maneuvering around the commercial and recreational water craft. It does not discuss the fact that the AC34 race boats are much faster than the usual weekend racing sailboat. What can be done to help keep these mammals from being run over by the high speed AC34 boats? It is understandable that the boats do not want to hit anything, but the mammals are not always before surfacing. 04 [BIM-3a]

It is recommended that areas of rare or endangered species on the Marin Headlands be fenced 05 [BIU-5a]

PHONE 415.485.6257
FAX 415.485.6259
EMAIL mcl@marinconservationleague.org
URL www.marinconservationleague.org
ADDRESS 1623-A Fifth Avenue
San Rafael, CA 94901

Marin Conservation League was founded in 1934 to preserve, protect and enhance the natural assets of Marin County.

COM-228

off to keep visitors from trampling rare plants or the habitat of butterflies. That may work some of the time, but on important race days enforcement will be needed. Is that the responsibility of the race organizers or the GGNRA Park staff? 05 [BIU-5a] cont.

Transportation and Circulation

It is apparent from the DEIR that demands on the transportation services to and from Marin County will exceed the capacity of service providers. Supplemental routes were recommended. Would these supplemental routes be paid for by the GGBHTD or the event sponsors or cost covering fares? 06 [TR-6a]

The Golden Gate Bridge would be a terrific spot to watch the races. It would require some special regulation and enforcement during race days. Since people would be restricted to the east sidewalk would there be any danger of the weight stress similar to the 50th anniversary celebration? The overlook at the north end of the bridge could be a nightmare unless there is strict enforcement of a precalculated capacity of vehicles and pedestrians. 07 [TR-9b]

The road up to the Marin Headlands could also have a capacity challenge. Monitoring and diversion should be enforced on important race days. It would also be important to have contingency plans if crowds exceed the safe capacity. 08 [TR-3b]

We appreciate the opportunity to comment on the DEIR. Please advise us when the Final EIR is available to the public.

Sincerely,

Susan Stompe

Susan Stompe
President

ADV_LUT_AmericasCupDEIR_MCL.08.25.2011

Neighborhood Parks Council
Revitalizing Communities, Park by Park

Board of Directors
Jan Chernoff
Chris Guillard
Anne Halsted
Mindy Kershner
Alfredo Pedroza
Kelly Quirke
Jonathan Rewers
Patty-Jo Rutland
Jim Sutton
Isabel Wade, founder
Marcel Wilson

Meredith Thomas
Executive Director

Bill Wycko
San Francisco Planning Department
1650 Mission Street, Suite 400
San Francisco, CA 94103

August 25, 2011

Re: America's Cup 34 (AC34) Draft Environmental Impact Report (DEIR): Concern for loss of open (water) space at Rincon Point Open Water Basin (Piers 14-22 ½) and Brannan Street Wharf Open Water Basin (Piers 32-36)

Dear Mr. Wycko,

The Neighborhood Parks Council (NPC) is writing to express our concerns with the proposed amendments of the San Francisco Bay Conservation and Development Commission's (BCDC) *San Francisco Waterfront Special Area Plan* and the loss of open (water) space at Rincon Point Open Water Basin (Piers 14-22 ½) and Brannan Street Wharf Open Water Basin (Piers 32-36) as proposed in the America's Cup 34 (AC34) Draft Environmental Impact Report (DEIR). The dock proposed for the Rincon Point Open Basin and Brannan Street Wharf Open Water Basin, in both temporary and permanent form, would destroy one of the great waterfront bay vistas and, even in its temporary form, would compromise a prime viewing area of the AC34 race itself.

The Rincon Point Open Water Basin and the Brannan Street Wharf Open Water Basin are identified as "Open Water Basin" in the BCDC Special Area Plan. Under the current BCDC Special Area Plan, "Open Water Basins should be focal points of public use and enjoyment" [1] and "provide opportunities for public access between the Bay and piers and should provide new and substantial Bay views from the boundary piers framing the Open Water Basins." [1] Piers 14-22 ½ and Piers 32-36 would be used to accommodate large privately owned vessels, significantly diminishing opportunities for public viewing and reserving the best seats for the wealthiest few.

Furthermore, the Host Venue Agreement provides the America's Cup Event Authority long-term development rights if dredging is required at temporary berthing sites. The proposal in AC34 DEIR calls for dredging, this will result in the disturbance of sensitive aquatic ecosystems and the potential for permanent loss of bay views and publicly accessible open space.

01
[AE-1]

NPC believes neither temporary nor permanent docks in both locations are appropriate uses given the compromised views and loss of open "water" space along the San Francisco waterfront.

[1] San Francisco Bay Conservation and Development Commission. San Francisco Waterfront Special Area Plan. pp. 24. 2010.

451 Hayes Street, 2nd Floor | San Francisco, CA 94102 | Phone: 415.621.3260 | Fax: 415.703.0889 | sfnpc.org

NPC is excited and optimistic about activities for the America's Cup and the many wonderful opportunities this event can bring to our waterfront. However, we need to assure we preserve our waterfront for the enjoyment of all San Franciscans.

For our parks,

Meredith Thomas
Executive Director

cc.

Peter Albert, Deputy Director of Planning, SFMTA
Mark Buell, Chairman, America's Cup Organizing Committee
Larry Ellison, CEO, Oracle Corporation
Anne Halsted, Vice Chair, Bay Conservation and Development Commission
Dan Hodapp, Senior Waterfront Planner, Port of San Francisco
Jane Kim, District 6 Supervisor
John King, San Francisco Chronicle
Ed Lee, Mayor, City of San Francisco
Kyri McClellan, Executive Director, America's Cup Organizing Committee
Monique Moyer, Executive Director, Port of San Francisco
Diane Oshima, Assistant Deputy Director, Waterfront Planning
David Perry, Principal, David Perry and Associates
Michael Sweet, Chair, Rincon Point-South Beach CAC
Will Travis, Executive Director, BCDC
Corinne Woods, Chair, Mission Bay CAC

NATURAL RESOURCES DEFENSE COUNCIL

August 25, 2011

Bill Wycko, Environmental Review Officer
Joy Navarette, CEQA Coordinator
San Francisco Planning Department
Environmental Review Officer
1650 Mission Street, Suite 400
San Francisco, CA 94103
Submitted Electronically to: joy.navarrete@sfgov.org

Re: Draft Environmental Impact Report for the 34th America's Cup & The James R. Herman Cruise Terminal and Northeast Wharf Plaza Planning Dept. Case No. 2010.0493E.

Dear Mr. Wycko & Ms. Navarette:

On behalf of NRDC (Natural Resources Defense Council), which has 1.3 million members and activists, 250,000 of whom are in California, we are writing to submit comments on the 34th America's Cup Draft Environmental Impact Report (AC34 DEIR). NRDC is an environmental advocacy organization that uses law, science and the support of our members and online activists to protect the planet's natural resources and ensure a safe and healthy environment for all living things.

We recognize the scale of the AC34 event is large, and appreciate the SF Planning Department's efforts to prepare a comprehensive DEIR to mitigate the potential significant impacts on the environment. There are some sections of the DEIR and associated plans that are adequate, for example; the Waste Plan is very thorough and well constructed. We appreciate that the DEIR recognizes the importance of adherence to LEED purchasing standards for recycled content, and specific requirements on compostable containers. We also applaud the waste plan's acknowledgement that by applying zero waste principles, there is good opportunity to publicize how these standards should help them avoid contributing to marine plastic pollution. **01** [GEN-4]

However, there are other sections of the DEIR where omissions or inadequacies, especially related to protection of marine biological resources and air quality, are significant, and could jeopardize the health of the Bay Area citizens and the marine environment. This letter focuses on those areas where improvements are necessary to comply with CEQA and to protect human health and our valuable natural resources.

I. General Comment Overview

As discussed in more detail in the sections that follow, the AC34 DEIR must be improved to address the following CEQA deficiencies. The following points outline the concerns we address throughout this comment letter: **02** [GEN-3, IO-4b, IO-4c]

- The description of the project's environmental setting is deficient and does not meet CEQA Guideline §15125 in certain sections.

COM-230

- Mitigation measures defer to future plans yet to be developed and lack realistic performance standards necessary to ensure reduction or negation of environmental impacts in conflict with CEQA Guideline § 15126.4(a)(1)(B).
- Certain mitigation measures are not fully enforceable, as required by CEQA Guidelines § 21081.6(b).
- Scientific information is outdated and insufficient to provide "substantial evidence" of agency conclusions as required by CEQA Guideline § 15384.
- Analysis of Cumulative Impacts in all sections must be robust because the San Francisco Bay Area, where the proposed project is located, is a highly industrialized area.

02 [GEN-3, IO-4b, IO-4c] cont.

NRDC has identified the following areas where specific improvement is needed.

Marine Resources

- The description of the Project's environmental setting should be improved through addition of up-to-date information and removal of outdated information, more robust consultation with local experts, inclusion of additional citations, and addition of important information about certain species, their behavior and locations.
- The full scope of the sound attenuation plan must be defined.
- AC34 should be required to use best available technology to reduce pile driver source levels and horizontal propagation.
- Pile driving and other construction should be scheduled around biologically important periods or seasons.
- Mitigation measures to address noise impacts from aircraft must be comprehensive and must include reasonable enforcement mechanisms.
- More robust information and analysis regarding noise impacts from boats is needed.
- More thorough, supported, details must be provided about race and spectator boats as well as measures to prevent ship-strikes.
- Interagency consultation on marine mammal impacts under the Marine Mammal Protection Act and preparation of an Incidental Harassment Authorization should be required.
- Cumulative impact assessment lacks necessary facts and analysis to support conclusion that mitigation measures will reduce potentially significant impacts to less than significant.
- The DEIR relies upon outdated data to establish sound thresholds.
- The mitigation measure to address invasive species is insufficient as written.
- Mitigation measures must be much more detailed, enforceable, and should make use of important tools already available to minimize environmental impacts to the marine resources of the San Francisco Bay.

03 [BIM-1a]

Water Quality Impacts

- Insufficient information is given to assess whether mitigation measures will reduce water quality impacts to less than significant.
- Green infrastructure solutions should be required.

04 [HY-10a]

Air Quality Impacts

- Construction emissions exceed permissible thresholds and additional mitigation measures are necessary to avoid significant health risks from NOx and fine particulate matter pollution.
- Significant negative air quality and health impacts of the disconnection of the cruise terminal shoreside power facility have not been adequately described; this proposed measure should be avoided or full mitigation must be ensured.
- Where it is shown that mitigation cannot reduce emissions impacts below established thresholds of significance, the project must set aside funds for additional mitigations to make up for this shortfall in consultation with the Bay Area Air Quality Management District.

05 [AQ-2, AQ-3, AQ-5]

Transportation Impacts

- The short planning horizon means that programmatic approaches to transportation, including a strong emphasis on transportation demand management, are the areas that deserve attention and resources.
- The highest-priority transportation measure San Francisco should address is securing the cooperation of the regional transit agencies that serve San Francisco to expand service.
- The America's Cup will rely significantly on walking and biking as modes of transportation; improving facilities and ensuring safety are paramount concerns.

06 [TR-2f]

II. Marine Resources

California is home to some of the world's most rich marine biological resources.[1] For many years, the state has pursued laws and policies designed to protect, restore and improve these resources for the enjoyment of people and to ensure the long-term health of the resources themselves. The creation of a statewide network of marine protected areas, as directed under the Marine Life Protection Act[2], is just one example of California's investment in our marine resources.

The 34th America's Cup is an opportunity to recognize and California's ocean treasures; it is also essential that the event and related construction activities are maximally protective of these resources.

1. Description of the Project's Marine Biological Setting

a. The project's description of the marine biological setting should be improved through removal of outdated information, more robust consultation with local experts, inclusion of additional citations, and addition of important information about certain species, their behavior and locations.

According to the CEQA Guidelines, §15125:

(a)An EIR must include a description of the physical environmental conditions in the vicinity of the project, as they exist at the time the notice of preparation is published …

(c) Knowledge of the regional setting is critical to the assessment of environmental impacts. Special emphasis should be placed on environmental resources that are rare or unique to that region and would be affected by the project. The EIR must demonstrate that the significant environmental impacts of the proposed project were adequately investigated and discussed and it must permit the significant effects of the project to be considered in the full environmental context.

07 [BIM-1a, BIM-1b]

Construction and operation of facilities for the AC34 events will include activities that have the potential to directly and indirectly impact protected and special-status marine species.[3] The AC34 DEIR provides some information about the marine communities and wildlife habitats of the San Francisco Bay-Delta and surrounding areas, additional information is needed.[4] However, there are deficiencies in the DEIR's description of the marine biological resources in the vicinity of the project, which must be incorporated to ensure adequate assessment of environmental impacts.

[1] *See e.g.*, California Wildlife Action Plan: Marine Region, prepared by UC Davis Wildlife Health Center for the CA Department of Fish and Game, 2007, *available at* http://www.dfg.ca.gov/wildlife/WAP/docs/report/ch15-marine.pdf

[2] http://www.dfg.ca.gov/mlpa/

[3] Draft Environmental Impact Report, The 34th America's Cup & James R. Herman Cruise Terminal and Northeast Wharf Plaza, San Francisco Planning Department Case No. 2010.0493E, at 5.14-82, *available at* http://sfmea.sfplanning.org/2010.0493E_DEIR2.pdf [hereinafter "DEIR"].

[4] DEIR at 5.14.4.2

To comply with CEQA, an agency's significance determinations must be supported by credible analysis and substantial evidence "in light of the whole record."[5] Under this standard, "substantial evidence" means "enough relevant information and reasonable inferences from this information that a fair argument can be made to support a conclusion."[6]

In some sections, the DEIR uses decades-old scientific studies. The relevance of these outdated studies is questionable, and thus their adequacy in meeting the substantial evidence requirement of CEQA is concerning. For example, a Dungeness Crab study is cited from 1979,[7] as is a 1986 study regarding the effects of seismic exploration on fish and larvae.[8]

Lead agencies should not use "scientifically outdated information" in assessing the significance of impacts.[9] We strongly recommend that the agency use as up-to-date scientific data as reasonably possible. And in the cases where the agency relies on a study that is over thirty years old, we respectfully request an explanation as to why more current data is not available.

The DEIR describes the marine mammals most likely to be impacted as being harbor seals, California sea lions, harbor porpoises, gray whales, humpback whales, bottlenose dolphins and sea otters.[10] The following are examples of marine biological information that should be augmented in order to accurately determine the impacts of the project:

07 [BIM-1a, BIM-1b] cont.

Harbor Porpoises: The DEIR provides very general information about harbor porpoises, but does not include specific information about abundance, distribution, movement, frequency of occurrence or behavior within the project area.[11] Valuable information about the Bay Area's harbor porpoise population is available from researchers at Golden Gate Cetacean Research.[12] The most effective way to protect these sensitive animals from noise or other impacts, such as boat strikes, is through seasonal and geographic avoidance and minimizing vessel traffic during tidal regimes that attract porpoises to specific areas. On-site monitoring of the porpoises during race events is therefore recommended.

According to Golden Gate Cetacean Research, which has a permit from the National Marine Fisheries Service to closely approach and observe harbor porpoises and bottlenose dolphins in San Francisco Bay, porpoises occur on a year-round daily basis in the Golden Gate and Central Bay. They have been documented in significant numbers (up to 40) between the Golden Gate Bridge and Angel Island and Alcatraz Island. Depending on the tide, they frequently forage for prey fish near Cavallo Point and Yellow Bluff. In particular, the deepwater trench just off Yellow Bluff, which produces a strong tidal rip current, has proven to have consistent sightings. During ebb tide, porpoises often disperse over an area approximately 200 m long by 50 m wide and engage in active milling and diving. In addition to foraging, other population-sensitive behaviors such as mating, nursing and mother/calf resting has been frequently observed.

See accompanying Map areas of concentration of both harbor porpoises and bottlenose dolphins.

Bottlenose Dolphins: The DEIR mentions bottlenose dolphins, but does not include specific information about their abundance, movement or frequency of occurrence.[13] According to Golden Gate Cetacean

[5] CEQA Guidelines § 15064(a)(1).

[6] *Id.* at§ 15384.

[7] DEIR at 5.14-56.

[8] *Id.* at p. 5.14-91, fn. 176.

[9] *Berkeley Keep Jets Over the Bay Comm. v. Board of Port Comm. (1st Dist. 1995) 91 Cal. App. 4th 1344, 1367* [111 Cal. Rptr. 2d. 598].

[10] DEIR at 5.14-65 to -68.

[11] *Id.* at 5.14-52, -67, -83.

[12] www.GGCetacean.org

[13] DEIR at 5.14-60, -82.

Research, bottlenose dolphins occur in San Francisco Bay from May through October approximately 2 to 3 times per week. They arrive in small groups, from 2 to 7 animals, and tend stay near the San Francisco shoreline, foraging east of the Golden Gate Bridge near Ft. Point and off Crissy Field.

Sharks: The DEIR mentions the presence of two species of sharks, Leopard sharks and spiny dogfish sharks[14], but it does not recognize that there are 11 species of sharks living in the Bay. According to an expert consulted at the Aquarium of the Bay, at least five of these species, including Sevengill sharks (*Notorynchus cepedianus*), are present in the Bay year-round, so the Bay is an important "nursery" area. The responsible agency and AC34 project sponsor should consult with the Aquarium of the Bay to gather additional information about the established areas where Sevengill sharks spend time, particularly around the Golden Gate Bridge and Alcatraz.[15]

Harbor Seals and California Sea Lions: The DEIR notes the existence of a year-round Harbor Seal haul out on Yerba Buena Island and permanent colonies of these animals around the Bay; it also notes the significant presence of California Sea Lions.[16] The DEIR should be enhanced with additional information about the pupping season for harbor seals (April-May) and the vulnerability of pups to strikes by high-speed boats.[17] Maps depicting the preferred haul-outs for seals and sea lions should be provided in the Final EIR, as well as in the Visiting Mariners information materials, discussed in Section II.5, below. Consultation with the Marine Mammal Center is advised; instructions and information for reporting sick or dead animals to the Center, and other important information such as boat speed limits and recommended observance distances should all be made readily available to officials and mariners alike.

Whales: The DEIR dismisses the gray and humpback whales as "migratory" and "infrequent" respectively, which is accurate, based on information received from Golden Gate Cetacean Research. Gray whales are known to enter San Francisco Bay in very low numbers (less than 10 per year) during seasonal offshore migrations, mostly during the spring northbound leg, from February to May. Humpback whales and minke whales may enter the Bay on very rare occasions, but no occurrence pattern has been determined.

07 [BIM-1a, BIM-1b] cont.

COM-232

2. Impacts to Marine Mammals

The DEIR identifies four general categories of potential impacts on marine mammals: (a) noise impacts from the construction of temporary race infrastructure; (b) noise from overhead aircraft (helicopters); (c) Noise from spectator boats during the race; and (d) Ship strikes from spectator boats. NRDC is concerned about these impacts and the adequacy of the proposed mitigation measures, for each of these impact areas. As described in more detail below, under discussion of Visiting Mariners Information, it is essential that all mitigation measures intended to mitigate or avoid significant effects on environment be fully enforceable through permit conditions, agreements, or other measures.

a. The full scope of the sound attenuation plan must be defined.

The DEIR states that seismic upgrading of the piers would be required for the AC34 events, requiring additional 72-inch steel piles to be installed.[18] Additionally there will be steel anchoring piles and mooring anchors associated with the temporary installation of floating docks, vessel moorings.[19] Vibratory pile drivers

08 [BIM-5b]

[14] *Id.* at 5.14-57.
[15] Information based on communications with Christina Slager, Director of Animal Care and Exhibitry at the Aquarium of the Bay, citing a paper currently under preparation, Movements and Distribution of Sevengill Sharks (*Notorynchus cepedianus*) in the San Francisco Bay, Slager et al.
[16] DEIR at 6.14-51, -52, -53, -65, -66.
[17] Information based on communications with Marine Mammal Center biologist.
[18] DEIR at 5.14-88.
[19] *Id.*

will be used to install steel pilings for temporary race infrastructure and seismic upgrading, which produces high intensity noise and result in damage to soft tissues, and/or harassment of fish and marine mammals.[20]

To reduce the impacts on marine mammals, the DEIR proposes mitigation measure *M-BI-11b Pile Driving Noise Reduction for Protection of Marine Mammals*[21], calling for the creation of a NMFS-approved sound attenuation monitoring plan. Although the DEIR lists some actions that should be included in the sound attenuation plan (*see* p. 5.14-98), it is only a minimum set of actions. Without seeing the full plan, it is difficult to assess and comment on the adequacy of this mitigation measure.

To reduce the noise impacts from pile driving on marine mammals to "less than significant", Mitigation Measure M-BI-11b references a sound attenuation plan that is not yet in existence. Although the mitigation measure sets out a minimum set of actions, the full scope of actions are not given, and thus it is impossible to know whether this mitigation measure is adequate.

The CEQA Guidelines require that mitigation measures describe actions that will be taken to reduce or avoid a significant impact. The Guidelines state that "formulation of mitigation measures should not be deferred until some future time."[22] In limited circumstances an agency may defer the specifics of a mitigation measure. This type of deferral is only permissible when the adopted mitigation measure both: (1) commits the agency to a realistic performance standard that ensures the mitigation of the significant impact and (2) does not allow physical changes to the environment unless the performance standard is or will be satisfied.[23] It is impermissible for an agency to defer creation of a mitigation measure and instead require a project applicant "to obtain a biological report and then comply with any recommendations that may be made in the report."[24]

08 [BIM-5b] cont.

As currently written, the DEIR fails to set realistic performance standards without which pile driving cannot occur. Instead, the DEIR impermissibly relies upon the as yet uncreated sound attenuation plan as a mitigation measure.[25]

By incorporating actions outlined in Mitigation Measure M-BI-11a, Mitigation Measure M-BI-11b sets a sound intensity level at 183dB. This decibel limit is not a strict rule, however. If activities exceed that decibel level, the project sponsor is not required to cease activity. Instead, pile driving can continue with the implementation of a "contingency plan" using a bubble curtain or air barrier.[26] NRDC recommends that a bubble curtain or air barrier always be used, and not wait until sound threshold levels are exceeded. Mitigation Measure M-BI-11b requires that sound levels remain below 90 dBA in air when pinnipeds such as seals and sea lions are present[27], but fails to indicate what the project sponsor is to do if the levels exceed this level, or what these levels equate to underwater.

Moreover, the DEIR does not provide scientific explanation for why these decibel threshold levels are used and offers no supporting evidence that they would be sufficient to protect marine mammals.[28] Studies show that sensitive marine mammals, such as the harbor porpoise, abandon habitat in response to pulsed sounds

[20] *Id.*
[21] DEIR at 5.14-98
[22] CEQA Guidelines § 15126.4(a)(1)(B)
[23] *See* CEQA Guidelines § 15126.4 (a)(1)(B); *Endangered Habitats League v. County of Orange*, 131 Cal. App. 4th 777, 793 (4th Dist. 2005).
[24] *Defend the Bay v. City of Irvine*, 119 Cal. App. 4th 1261, 1275 (4th Dist. 2004).
[25] An "[i]mpermissible deferral of mitigation measures occurs when an EIR puts off analysis or orders a report without either setting standards or demonstrating how the impact can be mitigated in the manner described in the EIR." *City of Long Beach v. Los Angeles Unified Sch. Dist.* 176 Cal. App. 4th 889, 916 (2nd Dist. 2009).
[26] DEIR at 5 14-98
[27] *Id.*
[28] Note that the decibel scale is logarithmic, and every 10 dB increase represents an increase in intensity by a factor of 10. Thus, 183 dB is over one million times more intense than 120 dB.

underwater well below 120 dB.[29] The stated threshold of 183dB is over one-million times more intense than the 120dB level known to impact harbor porpoises.[30] Further, the DEIR itself acknowledges that sound levels between 120dBand 160dB could cause harassment of marine mammals.[31] 08 [BIM-5b] cont.

b. AC34 should be required to use of best available technology to reduce pile driver source levels and horizontal propagation.

There are significant additional activities that should be added to mitigate noise from pile driving associated with the installation and removal of temporary moorings, floating docks, wave attenuators, and pile-supported barges, and the installation of temporary steel piles to anchor the temporary floating docks and wave attenuators.

First, the best available control technology to limit source levels and attenuate the pile-driving pulse should be used. Reducing the source level and limiting the horizontal propagation from pile drivers has enormous benefit for both species and project managers. Such methods shrink the environmental impact area of the activity and therefore the area that must be monitored, along with the potential for forced shut-downs.

A variety of noise reduction technologies for pile drivers have been developed and used worldwide. NRDC recommends the use of vibratory pile drivers in lieu of impact pile drivers wherever allowed by sediment and other conditions, since the former generate significantly lower peak pressures, and that it also investigate the use of press-in pile drivers, a less commonly used technology that can reduce source levels further. 09 [BIM-5b]

Additionally, the AC34 event organizers should require at least one of the following methods to dampen or attenuate pile driver sound: bubble curtains, cushion blocks, cofferdams, and/or temporary noise attenuation pile ("TNAP") design. These methods have been shown individually to substantially reduce propagation levels – by as much as 26 dB in the case of cushion blocks. The San Francisco-Oakland Bay Bridge East Spans Seismic Safety Project Pile Installation Demonstration Project tested the effectiveness of a bubble curtain and a floating barrier with a contained aerating mechanism; results suggested that the sound attenuation devices tested reduce the sound pressure levels in the vicinity of pile driving activities.[32] These methods are also helpfully summarized in a recent submission by NMFS' Ocean Acoustics Program to the International Whaling Commission's Scientific Committee.[33]

c. Pile driving and other construction should be scheduled around biologically important periods or seasons.

Although the DEIR calls for using impact hammers only between June 1st and November 30th when the likelihood of sensitive fish species being present in the area is minimal,[34] similar precautions are not 10 [BIM-5b]

[29] *E.g.*, Bain, D.E., and Williams, R., *Long-range effects of airgun noise on marine mammals: responses as a function of received sound level and distance* (2006) (IWC Sci. Comm. Doc. IWC/SC/58/E35); Kastelein, R.A., Verboom, W.C., Jennings, N., de Haan, D., Behavioral avoidance threshold level of a harbor porpoise (Phocoena phocoena) for a continuous 50 kHz pure tone, *Journal of the Acoustical Society of America* 123: 1858-1861 (2008); Kastelein, R.A., Verboom, W.C., Muijsers, M., Jennings, N.V., van der Heul, S., The influence of acoustic emissions for underwater data transmission on the behavior of harbour porpoises (Phocoena phocoena) in a floating pen, *Mar. Enviro. Res.* 59: 287-307 (2005); Olesiuk, P.F., Nichol, L.M., Sowden, M.J., and Ford, J.K.B., Effect of the sound generated by an acoustic harassment device on the relative abundance and distribution of harbor porpoises (Phocoena phocoena) in Retreat Passage, British Columbia, *Mar. Mamm. Sci.* 18: 843-862 (2002).

[30] *See supra*, note 23.

[31] DEIR at 5.14-92, Table 5.14-8.

[32] 4.14.8 of the FEIS. http://www.dot.ca.gov/dist4/sfobb/sfobbfeis.htm#volii

[33] Gedamke, J., and Scholik-Schlomer, A.R., Overview and summary of recent research into the potential effects of pile driving on cetaceans (2011) (IWC SC/63/E11) (available at iwcoffice.org/_documents/sci_com/SC63docs/SC-63-E11.pdf).

[34] DEIR at 5.14-97.

COM-233

articulated for migratory marine mammals. Humpback whales are potentially in the area April through December, and gray whales are potentially present December through April.[35] Pile driving and other construction should be scheduled around biologically important periods or seasons.

Regarding marine mammals that are less migratory or live in the area year round, construction activity should be planned to take place outside of important biological times. For example, construction should not occur during high density times or calving periods for marine mammals.

This is particularly important with respect to the harbor porpoise. Of all marine mammals species studied thus far, the harbor porpoise is the most acutely sensitive to anthropogenic noise. Harbor porpoises are substantially more susceptible to temporary threshold shift (*i e.*, hearing loss) from broadband, predominantly low-frequency pulsed sound than are the other cetacean species that have thus far been tested.[36] Several studies have confirmed their displacement away from pile drivers to a distance of at least 15 kilometers around each sound source, and indicate that in some cases the effect can persist for months or years after construction.[37] This result is consistent with both captive and wild animal studies showing harbor porpoises abandoning habitat in response to various types of pulsed sounds at very low received levels, well below 120 decibels (re 1 μPa (RMS)).[38] 10 [BIM-5b] cont.

d. Mitigation measures to address noise impacts from aircraft must be comprehensive and must include reasonable enforcement mechanisms.

Low flying aircraft, such as helicopters that are used to produce live video coverage of the races could disturb marine mammals, especially humpback whales.[39] *Mitigation Measures: M-BI-14 Restrictions on Low-Flying Aircraft* describes that as part of the Air Traffic plan, the project sponsors are to include "instructions to AC34 contracted and race affiliated helicopters" that they maintain an altitude of 1,000 ft above the water's surface when humpback whales are present within the race course.[40] The 1000 foot altitude floor for subsonic fixed-wing aircraft is a standard mitigation measure and is supported by the literature. 11 [BIM-3d]

There is no discussion as to how this mitigation measure is enforced or how the helicopter drivers will be informed as to whether humpback whales are present, or who is (and how they are) determining whether humpback whales are present. The DEIR also does not contemplate whether other marine mammals aside from humpback whales could be disturbed.

[35] *Id.* at 5.14-53.

[36] Lucke, K., Siebert, U., Lepper, P.A., and Blanchet, M.-A., Temporary shift in masked hearing thresholds in a harbor porpoise (*Phocoena phocoena*) after exposure to seismic airgun stimuli, Journal of the Acoustical Society of America 125: 4060-4070 (2009).

[37] Evans, P.G.H. (ed.), Proceedings of the ECS/ASCOBANS Workshop: Offshore wind farms and marine mammals: impacts and methodologies for assessing impacts, at 50-59, 64-65 (2007) (ECS Special Publication Series No. 49, available at www.wdcs.org/submissions_bin/wind_farm_workshop.pdf); *see also* Carstensen, J., Henriksen, O. D., and Teilmann, J., Impacts of offshore wind farm construction on harbour porpoises: acoustic monitoring of echolocation activity using porpoise detectors (T-PODs), Mar. Ecol. Prog. Ser. 321: 295-308 (2006).

[38] *E.g.*, Bain, D.E., and Williams, R., Long-range effects of airgun noise on marine mammals: responses as a function of received sound level and distance (2006) (IWC Sci. Comm. Doc. IWC/SC/58/E35); Kastelein, R.A., Verboom, W.C., Jennings, N., de Haan, D., Behavioral avoidance threshold level of a harbor porpoise (Phocoena phocoena) for a continuous 50 kHz pure tone, Journal of the Acoustical Society of America 123: 1858-1861 (2008); Kastelein, R.A., Verboom, W.C., Muijsers, M., Jennings, N.V., van der Heul, S., The influence of acoustic emissions for underwater data transmission on the behavior of harbour porpoises (Phocoena phocoena) in a floating pen, *Mar. Enviro. Res.* 59: 287-307 (2005); Olesiuk, P.F., Nichol, L.M., Sowden, M.J., and Ford, J.K.B., Effect of the sound generated by an acoustic harassment device on the relative abundance and distribution of harbor porpoises (Phocoena phocoena) in Retreat Passage, British Columbia, *Mar. Mamm. Sci.* 18: 843-862 (2002).

[39] DEIR at 5.14-104.

[40] *Id.* at 5.14-107.

e. More robust information and analysis regarding noise impacts from boats is needed.

The DEIR claims that 2,280 boats are anticipated to attend the 2013 AC34 races during peak race days, and fewer in 2012" and that "increased noise is not expected to be any greater than that which currently occurs on good weather days on the Bay."[41] It concludes that "the contribution to overall ambient noise levels can be considered negligible and comparable to the existing ecological condition, and therefore, less than significant." The paragraph discussing this issue is very sparse and no detailed analysis or citations are provided to support the estimated number of boats or this conclusion.

12 [BIM-3d]

It is highly unlikely that this significant increase in vessel traffic would not contribute to increased ambient noise levels in and around the Bay, in addition to localized disruptions from thousands of active boats. The DEIR also doesn't contemplate that boats will likely be congregating in certain viewing spots, thereby concentrating the noise in certain areas. More information is needed about the assumptions and conclusions in the DEIR and improved, and enforceable mitigation measures are needed, including clear descriptions and maps of areas of avoidance for boats (see "Visiting Mariners mitigation section, below).

f. More thorough, supported, details should be provided about race and spectator boats as well as measures to prevent ship-strikes.

The potential impact on marine mammals due to collision with the AC34 2012 or 2013 racing boats is deemed less than significant because as part of the Course Marshal's duties, the course will be inspected for the presence of any whales and floating debris and race management personnel on personal watercraft will be tasked with scanning the surface waters for "any obstructions such as whales that could possibly damage or impede fair play."[42] The potential impact on marine mammals due to ship strike from the spectator boats (estimated to be approximately 2,280 boats at its peak in 2013) is considered potentially significant, but reduced to less than significant with the mitigation measure of providing information to visiting mariners.[43]

NRDC does have concerns about these assumptions. Although the race boats are not few in number and not the deep single-hull model used in past races, they are traveling at speeds far greater than marine mammals are accustomed to. With regard to the spectator boats, no authority or detail is provided to support the assertion that there will be 2,280 spectator boats.

13 [BIM-3a]

Additional information is needed about the past interactions between marine life and the specific boats used in these races. Are the 2,280 spectator boats in addition to standard weekend traffic on the Bay? How was this number derived? What is known about ship strikes to marine mammals in the Bay during normal weekend?

The quality of that ship-strike mitigation measures depends on the training/experience and independence of the visual monitors and decision-makers. It's not enough to have race personnel scan the water for protected species; they require training and should have prior experience as marine mammal observers (MMOs). Furthermore, they need adequate numbers both to cover the waterspace and to take shifts (no more than 2 hrs of continuous observation). The MMOs must be independent of the race operator, and able to effectively trigger management action (rerouting or temporary suspension of the race). To enhance monitoring, hydrophones for real-time passive acoustic monitoring should be placed on the temporary structures. Finally, if baleen whales are in the area, all boats other than those deemed essential to the race (including construction vessels) should observe a 10 knots speed limit.[44]

The DEIR states:

[41] *Id.* at 5.14-105.
[42] *Id.* at 5.14-106.
[43] *Id.*
[44] Additionally, construction vessels should also be required to observe a 10 knot speed limit, especially if baleen whales are present in the area.

> "As part of the Course Marshal's duties to establish the day's race course, the course would be inspected for the presence of any whales as well as floating debris. Additionally, race management personnel on personal watercraft is tasked with scanning the surface waters for debris or any obstructions, such as whales, that could possibly damage or impede fair play. Large mammals are a danger to the racing boats. In the event that a whale is observed within the race area, the Course Marshal would postpone the race or abandon the race depending on the direction the whale is moving or its presence within or near the race course."[45]

13 [BIM-3a] cont.

We strongly support these measures.

g. Interagency consultation on marine mammal impacts under the Marine Mammal Protection Act should be required.

The DEIR briefly notes the applicability of the Marine Mammal Protection Act, including it in the discussion of the regulatory framework relevant to marine resources.[46] The DEIR also acknowledges the programmatic consultation between the Army Corps of Engineers and NMFS for routine harbor and port maintenance similar to those proposed with AC34 that required an Incidental Harassment Permit and the recent issuance of an Incidental Harassment Authorization (IHA).[47]

Incidental Harassment Authorizations under Section 101 (a)(5)(D) of the Marine Mammal Protection Act (16 U.S.C. 1361 *et seq.)* allow for the authorization of the incidental take of small numbers of marine mammals by "harassment". An Incidental Taking is an unintentional, but not unexpected, taking; a "taking" is defined under the MMPA as "harass, hunt, capture, kill or collect, or attempt to harass, hunt, capture, kill or collect."[48] Harassment is statutorily defined as, any act of pursuit, torment, or annoyance which—

- has the potential to injure a marine mammal or marine mammal stock in the wild; or,
- has the potential to disturb a marine mammal or marine mammal stock in the wild by causing disruption of behavioral patterns, including, but not limited to, migration, breathing, nursing, breeding, feeding, or sheltering but which does not have the potential to injure a marine mammal or marine mammal stock in the wild.[49]

14 [BIM-5b]

The DEIR acknowledges that the noise disturbance from proposed pile driving creates a potentially significant impact to marine mammals. AC34 activities also have the potential to both injure marine mammals and disturb their behavior patterns through noise impacts from construction, and the movement of air craft, race vessels, and spectator vessels. The DEIR has failed to express intent to apply for an IHA, stating simply that the mitigation measures described, "which are consistent with NMFS current programmatic review for pile driving activities in San Francisco Bay, are expected to reduce the potential for noise effects on marine mammals to less than significant."[50]

Even if the potential for serious injury or mortality can be negated through mitigation requirements, an IHA is still required and should be sought from the National Marine Fisheries Service for the take of small numbers of marine mammals incidental to the construction and activities associated with AC34.

[45] DEIR at 5.14-106.
[46] *Id* at 5.14-75.
[47] *See*, Incidental Harassment Authorization issued to the California Department of Transportation by NOAA, National Marine Fisheries Service, Office of Protected Resources, February 2, 2011 http://www.nmfs.noaa.gov/pr/pdfs/permits/caltrans_2011_iha.pdf
[48] 16 U.S.C. 1362.
[49] *Id.*
[50] DEIR at 5.14-94

b. Cumulative impact assessment lacks necessary facts and analysis to support conclusion that mitigation measures will reduce potentially significant impacts to less than significant.

CEQA Guidelines require "an EIR to discuss cumulative impacts of a project when the project's incremental effect is cumulatively considerable."[51] If a lead agency determines that the mitigation measures designed to alleviate a cumulative impact render the impact less than significant, the agency must "identify facts and analysis supporting its conclusion that the contribution will be rendered less than cumulatively considerable."[52] The discussion of cumulative impacts must reflect the severity of impacts and their likelihood of occurrence, and should be guided by the standards of "practicality and reasonableness."[53]

In *Impact C-BIb*, the DEIR concludes that the cumulative impacts of temporary construction, invasive species, and sensitive biological resources in combination with other past, present, and reasonably foreseeable future projects, could result in significant adverse cumulative impacts on marine and estuarine resources, but estimates that these impacts could be mitigated to less than significant with the proposed mitigation.[54]

Regarding marine mammals, the DEIR claims that it is unlikely that there would be more than one construction project engaged in pile driving at any one time and further reasons that sensitive mammals could simply move away from disturbing sound, reducing the contribution of the proposed project to less than significant.[55] The DIER does not provide the support for these conclusions required by CEQA.[56] Further, this conclusion doesn't follow the standards of "practicality and reasonableness"[57] because it ignores the nature of sound impacts on marine mammals, and ignores the necessary restrictions on the months during which pile driving can occur. 15 [BIM-5b]

As discussed in section 2(a) above, all construction activity should occur when migratory marine mammals are likely not present in the bay, and only during non-peak biologically important times for marine mammals that are not migratory. With humpback whales potentially present April through December, and gray whales potentially present December through April[58], this leaves a very small window in which construction activity could occur. With the foreseeable projects that could result in cumulative impacts numbering over ten, and including projects such as: the completion of the new eastern span of the Bay Bridge and associated projects on Yerba Buena Island, the construction and operation of a 400-berth marina in Clipper Cove, a variety of Port of SF waterfront and Port infrastructure improvement projects including the Southern Waterfront area, the downtown ferry terminal, the Piers 15 and 17 Exploratorium relocation, the Port of SF and Port of Oakland maintenance dredging, and the Transbay Tube and ferry terminal seismic improvements,[59] it is unreasonable to presume that the project activities would not overlap and occur at more than one time.

Moreover, to state that "at any given moment, marine mammals have the ability to move away from the disturbance source" and therefore the cumulative impacts of multiple construction projects in the bay are not significant, is not only practically unreasonable, it is scientifically untrue. Sound travels great distances in water, and can cause harassment and physical harm to marine mammals. In an earlier section, the DEIR itself acknowledges that pile driving could cause a significant impact on marine mammals.[60] More than an

[51] CEQA Guidelines § 15130 (a).
[52] *Id.* § 15130 (a)(1).
[53] CEQA Guidelines § 15130 (b).
[54] DEIR at 5.14-117, -118.
[55] *Id.* at 5.14-118.
[56] CEQA Guidelines § 15130(a)(2) require a lead agency to identify facts and analysis supporting the conclusion that the cumulative impact is less than significant.
[57] CEQA Guidelines § 15130 (b).
[58] DEIR at 5.14-53.
[59] For a complete list, *see* DEIR at 5.14-117-118.
[60] *See*, DEIR at 5.14-97.

unreasonable conclusion that marine mammals could simply avoid the sound disturbance source is needed to adequately address the requirements of CEQA regarding cumulative impacts. 15 [BIM-5b] cont

3. Impacts to Fish

The project area is home to many state or federally listed fish species, including Chinook salmon, Green sturgeon, Steelhead trout, and Longfin smelt[61] and other managed species including Pacific herring, anchovies, mackerel, sardine, soles, and sanddab.[62] NRDC is concerned that the impacts associated with construction, including the sound impacts from pile driving could significantly impact fish in the area.

a. The DEIR relies upon outdated data to establish sound thresholds.

The DEIR states that scientific investigations on the potential effect of noise on fish suggest that "sound levels below 187 dB do not appear to result in any acute physical damage or mortality to fish."[63] However, the scientific studies that the DEIR uses to support this conclusion are over twenty years old.[64] The adequacy of these outdated studies is questionable, and thus their adequacy in meeting the substantial evidence requirement of CEQA is concerning. Lead agencies should not use "scientifically outdated information" in assessing the significance of impacts.[65] We strongly recommend that more up-to-date scientific data be used. If current data is not available, we respectfully request this be articulated in the final EIR. 16 [BIM-5b]

b. The full scope of the sound attenuation plan must be defined.

The DEIR concludes that noise impacts to sensitive fish species would be reduced to less than significant by implementation *Mitigation Measure M-BI-11a*,[66] which calls for the development of a NMFS-approved sound attenuation plan.[67] Although it outlines some of best management practices that should be included in the plan the plan itself has not yet been created, thus it is difficult to comment on its adequacy. Please see above section under "Impacts to Marine Mammals" for a full discussion of our comments regarding the sound attenuation plan. 17 [BIM-5b]

4. Control of Invasive Species

a. The mitigation measure to address invasive species is insufficient as written.

Aquatic invasive species (AIS) are a series potential problem, especially because spectator boats will travel from around the world, as well as from many places along the west coast to observe the AC34 races. Although commercial vessels carrying invasive species in their ballast water or ship biofouling are widely known to be significant vectors of AIS, recent studies have demonstrated that recreational boats are also potential vectors. Voyage and maintenance characteristics determine the risks that vessels will act as vectors of aquatic nonindigenous species. The likelihood that a recreational vessel will carry AIS is highest among "yachts that travel long distances (between countries or across seas) and may spend significant durations of 18 [BIM-7]

[61] DEIR at 5.14-82.
[62] *Id.* at 5.14-88.
[63] *Id.* at 5.14-91.
[64] *Id.* at 5.14-91, fn. 176.
[65] *Berkeley Keep Jets Over the Bay Comm. v. Board of Port Comm. (1st Dist. 1995) 91 Cal. App. 4th 1344, 1367* [111 Cal. Rptr. 2d. 598].
[66] DEIR at 5.14-93.
[67] *Id.* at 5.14-97.

time at several overseas ports."[68] Many of the large spectator yachts that will travel to San Francisco for the AC34 are likely to meet these high threat characteristics.[69]

The DEIR acknowledges that the best way to control non-native species from hull fouling "is to minimize hull fouling through regular vessel maintenance, use of antifouling paints, frequent hull inspections, and overall vessel maintenance." It then states that these topics will be included in the Visiting Mariners Information, "thus reducing the risk of additional introduction of non-native and invasive species into the Bay from AC34 visiting boats to less than significant with mitigation."

The project sponsor is required to develop and implement an Invasive species control plan prior to beginning any in-water work (*M-BI-16 Invasive Marine Species Control*). The plan is to be developed in consultation with the U.S. Coast Guard, the Regional Water Board, and "other relevant state agencies."[70] While the DEIR articulates some minimum provisions that the plan should address, this list is not comprehensive. *Mitigation measure M-BI-12 Visiting Mariners* information will not be sufficient to reduce the impact to less than significant unless it contains that right information, distributed in an effective manner that maximizes compliance. 18 [BIM-7] cont.

"Heavy California boat traffic for races and fishing beyond local regions suggests a high risk for hull-borne AIS transport. Although many AIS have already reached California, it is important to prevent new (and possibly unknown) arrivals. It is also important to avoid spreading native species and locally established AIS to other areas."[71]

However, the minimum provisions are too general to be able to assess whether they would be effective. For example, declaring that "actions to be taken to prevent the release and spread of marine invasive species, especial algal species such as Undaria and Sargasso"[72] should be included in the plan, does not allow us to assess whether these actions would actually be meaningful, since we don't know what the actions are.

Specific suggestions to improve the proposed Mitigation to add to Visiting Mariners Information is provided in Section II.5, below.

5. Proposed Mitigation Measure: M-BI-12 Visiting Mariners Information

a. Mitigation measures must be much more detailed, enforceable, and should make use of important tools already available to minimize environmental impacts to the marine resources of the San Francisco Bay. 19 [BIM-8a]

For the mitigation of numerous impacts (habitat destruction, Impact BI-13; interference with the movement of marine or estuariune wildlife, Impact BI-14; conflict of AC34 facilities with applicable local policies or ordinances, Impact BI-15), the DEIR offers Mitigation Measure: M-BI-12 Visiting Mariners Information. This calls for the creation of information for visiting mariners and procedures for disseminating the

[68] Davidson, Ian C. et al, Recreational boats as potential vectors of marine organizsms at an invasion hotspot, Aquatic Biology, Vol. 11: 179-1919, 2010
[69] *See*, John King, "Cup's yacht plan threatens our wide-open bay views" San Francisco Chronicle, Aug. 22, 2011, http://www.sfgate.com/cgi-bin/article.cgi?f=/c/a/2011/08/22/MNV21KQN7S.DTL (describing the berthing accommodations under consideration for dozens of spectator yachts at least 100 feet long).
[70] *Id.* at 5.14-111.
[71] Taylor Johnson, Leigh, et al, Rock the Boat! Balancing Invasive Species, Antifouling and Water Quality for Boats Kept in Saltwater, Regents of the University of California, Sea Grant Extension Program, Sept. 2007 at 4, http://ucanr.org/sites/coast/files/48356.pdf
[72] *Id.*

information to boaters as part of the Water and Air Traffic Plan.[73] The DEIR lists the types of information that should be included, but the list is not exhaustive or detailed.[74]

This mitigation measure also calls for the Event Authority to coordinate with other jurisdictions regarding waste management at secondary viewing areas including Treasure Island, Angel Island, Sausalito, Belvedere, and Tiburon. The DEIR also suggests that the Event Authority "could develop" literature, maps of the marinas that show locations of fuel docks, sewage pump out, portable toilets, dump stations, etc. but this is not required.[75]

CEQA Guidelines require that "[a] public agency shall provide that measures to mitigate or avoid significant effects on environment are ***fully enforceable*** through permit conditions, agreements, or other measures. Conditions of project approval may be set forth in referenced documents which address required mitigation measures or, in the case of the adoption of a plan, policy, regulation, or other public project, by incorporating the mitigation measures into the plan, policy, regulation, or project design."[76] NRDC has serious concerns that the mitigation measures contained in the Visiting Mariners Information guidance will not be enforceable: it is essential that the Final EIR describe how the mitigation measures will be monitored and enforced.

To effectively mitigate the numerous potential impacts intended, the Visiting Mariner's information will need to be robust, well designed, translated into many languages, and actually enforceable. The following improvements are also necessary. 19 [BIM-8a] cont.

1) Significantly more details are needed about measures required or recommended;
2) Additional information about speed restrictions and maps details about marine mammal areas of concentration and;
3) Reference to existing tools and information that have already been developed;
4) A plan for distribution of materials that ensures uptake of information by visiting mariners and best possible compliance with all rules and guidelines; and
5) Clear protocol for inter-agency coordination to enforce the Visiting Mariners provisions.

The project proponents and relevant authorities should make use of numerous existing tools and information that could be incorporated into one single package of information, translated into various languages and distributed to all traveling mariners intending to view Americas Cup races:

- "Environmental Boating Laws Every Recreational Boater Should Know", http://www.coastal.ca.gov/ccbn/EnvironmentalLawsBrochure.pdf
- Boating Clean and Green program, conducted by the **California Department of Boating and Waterways** and the **California Coastal Commission** http://www.coastal.ca.gov/ccbn/ccbndx.html
- San Francisco Clean Boating Map, http://www.coastal.ca.gov/ccbn/SF_Bay_Clean_Boating_Map.pdf
- **USCG Vessel Traffic Service San Francisco User's Manual,** http://www.uscg.mil/d11/vtssf/vtssfum.asp
- University of California Cooperative Extension -- Sea Grant Extension Program, San Diego for Coastal Resources – has done significant work to control introduction of invasive species. They should be consulted for assistance with
  - Techniques for managing hull transport of aquatic invasive species for coastal boats;
  - Reporting and hull husbandry activities similar to those performed for commercial vessels: collection of data and implementation of management requirements to prevent introductions via

[73] DEIR at 5 14-102
[74] *Id*
[75] *Id.* at 5.14-103
[76] CEQA Guidelines § 21081.6(b), (emphasis added).

the vessel fouling vector.[77] Such data, and accompanying guidelines for visiting mariners should address the frequency of hull painting, the locations the ship has visited, period of time in port, and the speeds the vessel typically traveled.

San Francisco and the AC34 Event Authority should work closely with the U.S. Coast Guard and relevant authorities to ensure that all vessels entering the Bay are advised of additional rules and guidelines before they enter the Bay. 19 [BIM-8a] cont.

III. Water Quality Impacts

The DEIR anticipates that the America's Cup could create water quality impacts to the waters surrounding San Francisco due to runoff from construction sites and from activities conducted at completed sites.[78] This runoff could contain pollutants such as chemicals and litter.[79] The impacts of these pollutants on receiving waters could be significant, as Central San Francisco Bay and several other receiving waters are already listed as impaired for various pollutants.[80]

a. Insufficient information is given to assess whether mitigation measures will reduce water quality impacts to less than significant.

The DEIR's response to most of the anticipated water quality impacts is to state that managers in charge of the various sites and projects will develop legally mandated pollution control plans (for example, Stormwater Pollution Prevention Plans for construction sites), and thus the impacts will be less than significant.[81] However, the Draft EIR does not provide details regarding the likely contents of these plans, but rather simply assumes that they will be adequate to mitigate all of the event's impacts. This assumption is concerning and is contradicts CEQA Guideline 15126.4(a)(1)(B).[82] Because the detailed contents of the plans, which will determine their effectiveness, are unknown, it is impossible to comment at this time as to whether they would sufficiently mitigate the potentially significant water quality impacts. At a minimum, the mitigation measures must set realistic performance standard and must commit to achieve the standard before any physical changes to the environment are allowed.[83] Furthermore, the plans should be made available for public review once they are developed but before they are adopted. 20 [HY-12]

b. Green infrastructure solutions should be required. 21 [HY-10a]

[77] Takata, L. et. al, 2011 Biennial Report on the California Invasive Species Program, Produced for the California State Legislature by the California Marine Facilities Division, January, 2011, "Beginning in 2008, vessels operating in California waters are required to submit a Hull Husbandry Reporting Form (HHRF) once annually. This form requests information on certain voyage behaviors and maintenance practices that influence the amount of fouling that accumulates on the wetted surfaces of vessels, influencing the risk for NIS introduction." (*Id*, iii). See, http://www.slc.ca.gov/Regulations/Regulations_Home_Page.html#MarineInvasiveSpecies for regulations and hull husbandry form.

[78] *See* DEIR § 5.16.1.4 "Water Quality."

[79] DEIR at 5.16-58.

[80] *Id.* at 5.16-59.

[81] For example, *Mitigation Measure M-HY-1*, which is relied upon to mitigate several of the identified water quality impacts, calls for the creation of a materials Management Disposal Plan, DEIR at 5.16-71; *Impact HY-2& HY-6* does not call for a mitigation measure, instead relying on compliance with the Stormwater Design Guidelines, and Industrial General Stormwater Permit, DEIR at 5.15-74; *Impact HY-9* does not call for a mitigation measure, instead relying on "permit requirements" to implement water quality protection measures, DEIR at 5.16-84.

[82] *See* discussion of the limited circumstances in which an agency may permissibly defer formulation of a mitigation measure to a future time in the Marine Resources Section, *supra*.

[83] *See* CEQA Guidelines § 15126.4 (a)(1)(B); *Endangered Habitats League v. County of Orange*, 131 Cal. App. 4th 777, 793 (4th Dist. 2005).

The plans developed to mitigate impacts related to stormwater runoff should particularly focus on implementation of green infrastructure solutions. Green infrastructure, or low impact development, is an approach that uses technology – like strategically placed beds of native plants, rain barrels, green roofs, porous surfaces for parking lots and roads, and other tools – to help rainfall evaporate back into the atmosphere or soak into the ground, rather than polluting the nearest water body. In effect, green infrastructure mimics nature's own filtering systems after those functions are lost due to the replacement of natural habitat with man-made impervious surfaces.

The infiltration and transpiration of runoff through green infrastructure is effective at controlling stormwater volumes, and consequently the amount of pollutants entering receiving waters. Thus, green infrastructure solutions can mitigate the impacts of runoff draining directly to the Bay (or other receiving waters), as well as runoff that enters combined sewer systems and contributes to overflows. Moreover, the increased vegetation associated with green infrastructure provides communities with added benefits like improved air quality, reduced flooding, decreased urban heat island effect, and increased property values. 21 [HY-10a] cont.

Even if combined sewer overflows are not anticipated to result from (or increase due to) the America's Cup facilities construction and events, volume reduction should still be one of the foremost mitigation objectives as it can reduce the amount of chemicals entering the water, such as chemicals for boat maintenance or fuel, as well as litter, which is described as one of the primary potential water quality impacts of the event.[84]

In addition, these construction activities represent an excellent opportunity to incorporate LID into the new facilities so that combined sewer overflows can actually be reduced. In other words, this event is an opportunity not only to minimize immediate impacts, but also to create positive changes for neighboring communities. It would be short-sighted to focus only on avoiding negative environmental effects while foregoing the chance to make a positive difference to San Francisco's waters and its residents' quality of life.

The Draft EIR language relating to stormwater control plans does state that those plans will specify the use of control practices "such as" rain gardens and planters, which are green infrastructure practices that achieve infiltration and transpiration.[85] However, the DEIR does not commit to a focus on these practices, or even to their use. We recommend that these green infrastructure solutions be required.

IV. Air Quality

We are concerned that the significant health risks related to additional air pollution posed by the proposed project and discussed in the DEIR are unmitigable. Not only does the project itself create significant air pollution through numerous additional ship visits and the planned disconnection of shoreside power for cruise vessels, the construction emissions alone are significant. 22 [AQ-5]

Vulnerable populations in San Francisco will be negatively impacted by the air pollution from this project, as numerous residential dwelling units (e.g. sensitive receptors) are located in close proximity to the "project area." For example, homes on Lombard Street are as close as 500 feet from Piers 27-29.[86] All of the significant air quality and related health impacts of both the construction and operation of this project must be fully mitigated either directly through the project itself or through the use of external funding and mitigation programs in concert with local or regional agencies with air quality and public health expertise.

a. Construction emissions exceed permissible thresholds and additional mitigation measures are necessary to avoid significant health risks from NOx and fine particulate matter pollution. 23 [AQ-5]

[84] DEIR at 5.16-58.

[85] *Id.* at 5.16-73.

[86] *Id.* at 5.8-11.

While we are pleased that the proposed project would be subject to San Francisco's Clean Construction Ordinance[87], the construction emissions assessment appears not to have incorporated compliance with this ordinance, having relied on standard off-road equipment modeled emissions values from CARB.[88] In any case, construction emissions appear to go beyond thresholds of significance and were determined to remain above health thresholds despite the proposed mitigation.

We are pleased to see full compliance with the City and County of San Francisco's Construction Dust Control Ordinance.[89] However, the proposed mitigation fails to avoid significant health risks from nitrogen oxide (NOx) and fine particulate matter (PM) pollution[90], and therefore is inadequate. While we strongly support the requirements for the use of 2007 or newer model year trucks, construction equipment that complies with Tier 3 emission standards and diesel generators that meet Tier 4 emission standards[91], more can be done to curb emissions from these sources. We recommend the following mitigation measures:

23 [AQ-5] cont.

- All construction equipment should be equipped with Best Available Control Technology (BACT)[92] for emissions reductions of PM and NOx.
- Some US EPA certified Tier 4 construction equipment may already be available.[93] Where possible, equipment should meet Tier 4 standards or utilize above reference NOx controls.
- Operations should be electrified to the extent possible. Where access to the power grid is possible, this should be established instead of using stationary or mobile power generators. All cranes, forklifts and equipment that can be electrified, should be.

b. Significant negative air quality and health impacts of the disconnection of the cruise terminal shoreside power facility have not been adequately described; this proposed measure should be avoided or full mitigation must be ensured.

24 [AQ-2, AQ-5]

Operational impacts described in the DEIR are dominated by discussion of the volume of ships visiting the area. However, the impacts of the proposed disconnection of the cruise terminal shoreside power facility at Pier 27 are significant and appear to have been underestimated in the analysis. The DEIR only appears to include associated increased emissions in 2013[94], while the planned disconnection spans from 2012 potentially to 2014.[95]

Operational emissions of the project exceed the thresholds of significance by many times for all the pollutants evaluated.[96] These emissions also exceed thresholds for cancer and acute hazard risks.[97] We support the use of US EPA Tier 3 or cleaner race-sponsored spectator vessels as well as long term mitigation measures listed at DEIR page 5.8-60 including use of locally sourced concrete in addition to the cleanest diesel standards.

[87] *Id.* at 5.8-17.
[88] *Id.* at 5.8-21.
[89] *Id.* at 5.8-25.
[90] *Id.* at 5-8-26 & 5.8-29
[91] *Id.* at 5.8-28.
[92] Here BACT refers to the "Most effective verified diesel emission control strategy" (VDECS) which is a device, system or strategy that is verified pursuant to Division 3 Chapter 14 of Title 13 of the California Code of Regulations to achieve the highest level of pollution control from an off-road vehicle. See: http://www.arb.ca.gov/diesel/verdev/vt/cvt.htm
[93] See: http://www.dieselnet.com/standards/us/nonroad.php#tier4
[94] DEIR at 5.8-32.
[95] *Id.* at 5.8-54.
[96] *Id.* at 5.8-33.
[97] *Id.* at 5.8-33.

However, these measures do not approach full mitigation of the significant operational impacts. *We propose the following mitigation:*[98]

24 [AQ-2, AQ-5] cont.

- Require cruise ships to take alternative measures to reduce air emissions in port such as using lower-sulfur marine distillate fuel in advance of regulation; using biodiesel in cruise ship engines while in port; hooking up to shoreside generators operated on clean burning fuels such as natural gas or biodiesel.
- Construct and put into service a new clean, zero emissions water taxi along the waterfront beginning in 2012 that operates primarily on wind, solar and clean fuels to mitigate the air emissions impacts. (excluding diesel ferries and the inefficient Alcatraz "hybrid").
- Retrofit existing marine vessels on the Bay to meet California's harborcraft regulations ahead of schedule.
- Retrofit or provide shoreside power to cargo ships calling on the Port of SF to in advance of new state standards for shipping fuel and shoreside power.
- Implement other air quality projects in San Francisco that would benefit low-income residents as well as visitors and port neighbors.
- Implement air quality projects in neighboring communities that suffer disproportionately from air emissions impacts, such as West Oakland.

Where it is shown that mitigation cannot reduce emissions impacts below established thresholds of significance, the project must set aside funds for additional mitigations to make up for this shortfall in consultation with the Bay Area Air Quality Management District.

V. Transportation

The Draft Environmental Impact Report (DEIR) and the accompanying People Plan both make efforts to account for and mitigate the environmental impacts of increased transportation demand due to the America's Cup event. While NRDC will not comment on specific local environmental impacts (that is, impacts to specific intersections or road segments), we do offer the following general comments:

a. The short planning horizon means that programmatic approaches to transportation, including a strong emphasis on transportation demand management, are the areas that deserve attention and resources.

25 [TR-2f]

Given that the quick timeline for the review and preparation of the America's Cup forestalls the possibility of significant new capital projects to address transportation impacts, the America's Cup provides an excellent opportunity for San Francisco to test, refine and expand a number of approaches to transportation demand management. As the DEIR shows, parking enforcement and variable parking pricing are particularly important, both on-street and in off-street facilities. The DEIR's parking demand analysis might benefit from including proposed prices for parking in its calculations.

b. The highest-priority transportation measure San Francisco should address is securing the cooperation of the regional transit agencies that serve San Francisco to expand service.

26 [TR-2f]

The DEIR and the People's Plan rest significantly, if not primarily, on the assumption of significant cooperation between MUNI and the whole array of transit agencies that serve the city. Until clear and

[98] This list of mitigations was first recommended in joint comments NRDC submitted with other groups on August 5th 2011 to Monique Moyer, Executive Director of the Port of San Francisco and Mike Martin, America's Cup Project Director at the City and County of San Francisco.

executed cooperation agreements are in place, the public will understandably remain concerned about the environmental impacts of transportation during the America's Cup event.

San Francisco, however, should not be responsible for securing this cooperation alone. The Metropolitan Transportation Commission has an important role to play in bringing agencies together and marshalling their resources. Such active cooperation could see the America's Cup leaving a legacy of greater operational cooperation among transit agencies, not only through expanding the use of ClipperCards and other passes, but by easing inter-agency transfers and other practices with the eventual goal of a united fare structure for all of the region's agencies. 26 [TR-2f] cont.

c. The America's Cup will rely significantly on walking and biking as modes of transportation; improving facilities and ensuring safety are paramount concerns.

The DEIR states that 85% of trips into Superdistrict 1 are already non-auto, and together with transit, provision must be made for safe walking and biking. This not only means sensitive treatment of sidewalks and roads to provide smooth pedestrian and bicycle flow, but also efforts to ensure pedestrian and bicyclist safety at intersections to minimize conflicts with automobiles. San Francisco should expand its bike-sharing pilot in anticipation of the America's Cup. It should also provide more secure bike parking, which is already lacking in many of the areas designated as entry points to the city and the event (such as the CalTrain station). 27 [TR-8a]

***

Thank you for taking the time to consider NRDC's comments on the Draft Environmental Impact Report for the 34th America's Cup. By addressing the important deficiencies in the DEIR, which we have identified here, we are confident that the event will bring significant economic benefits to the San Francisco Bay Area, elevate awareness of our world class natural resources and built environment, while minimizing negative impacts to citizens and the natural environment.

Sincerely,

Leila Monroe, Staff Attorney, NRDC Oceans Program

Diane Bailey, Senior Scientist, NRDC Health and Environment Program

Justin Horner, Transportation Policy Analyst, Air and Energy Program

Michael Jasny, Senior Policy Analyst, NRDC Marine Mammal Protection Project

Taryn Kiekow, Staff Attorney, NRDC Marine Mammal Protection Project

Zak Smith, Staff Attorney, NRDC Marine Mammal Protection Project

Darby Hoover, Senior Resource Specialist, NRDC Urban Program

ONE HILLS PLAZA RESIDENTAL OWNERS ASSOCIATION

c/o Chandler Properties
2799 California Street
San Francisco, CA 94105

August 25, 2011

Joy Navarrete
Senior Environmental Planner
San Francisco Planning Department
1650 Mission Street Suite 400
San Francisco, Ca. 94103
Via E-mail – Joy.navarrete@sfgove.org

Dear Ms. Navarrete:

As President of the Board of Directors for One Hills Plaza Residential Homeowners Association, I want to register our building's strong objection to the proposal that would permit large yachts to berth their vessels in the Bay just beyond Cupid's Arrow Park (base of Folsom Street at the Embarcadero). We are the closest residential property to this area, and our residents purchased into this complex to enjoy the beautiful Bay views and unobstructed views of the Bay Bridge, Treasure Island, and, for some in the building, the Golden Gate Bridge. This proposal would obstruct those views for everyone to a substantial degree, and based upon all that I have reviewed, provide no end date for those obstructions. That is totally unacceptable to our membership.

Furthermore, as excited as we are about the America's Cup and the dollars it will bring to the City from owners of these yachts, we find it very unacceptable that the City is considering allowing ships to berth in an area that would have provided a viewing area for members of the public who might otherwise have no opportunity to participate in these events. Views for the public as well as our views as residents of 75 Folsom will be sacrificed for a few, very wealthy individuals having the convenience of berthing their ships in the heart of the action. 01 [AE-1]

We would ask that the City abandon these plans and find an alternative area or areas to accommodate these owners.

Respectfully,

Mary Ellen Davis
President, Board of Directors
One Hills Plaza Residential Owners Association
75 Folsom Street
San Francisco, Ca. 94105

Philanthropies in Support of Crissy Field

August 25, 2011

Bill Wycko
Environmental Review Officer
San Francisco Planning Department
1650 Mission Street, Suite 400
San Francisco, California 94103

RE: Draft Environmental Impact Statement for the 34th America's Cup

Dear Mr. Wycko:

We are writing to offer comments on the draft environmental impact report (DEIR) for the 34th America's Cup.

We share the city's excitement about bringing this historic event to our great city of San Francisco. At the same time, as concerned stakeholders who have made deep investments in the restoration of Crissy Field, we want to make sure that the city and its partners are doing everything in their power to protect Crissy Field and other locations from any adverse impacts associated with hosting the America's Cup.

We believe that the 34th America's Cup is an immense opportunity for San Francisco. The races and associated events promise to provide a significant boost to the local economy while at the same time showcasing the Bay Area's wealth of natural, civic and cultural resources for a national and international audience.

As the city is well aware, however, the crowds, the added traffic, and the use of the San Francisco Bay and its surrounding shoreline by race teams, the news media and millions of spectators could create lasting damage to vital community assets. It is estimated that as many as 6.8 million visitors will turn out at sites around the Bay to view the races and to participate in America's Cup-related events in 2012 and 2013. Early estimates are that Crissy Field alone will draw crowds of 80,000 or more on the some race days. It is our belief that these numbers could easily underestimate the actual crowds, as this will be the first-ever America's Cup with races held close enough to shore to allow land-based spectators to watch. **01** [PD-5]

We understand that Crissy Field will be a prime gathering area for these spectators, with its extensive bay frontage and proximity to the race course. It will potentially host America's Cup sponsored activities and will also provide prime front-row viewing for the general public from multiple vantage points along the shoreline. Diligent planning and the availability of significant resources for mitigation, protection and restoration are necessary to fully address the impact on Crissy Field. Given the start of America's Cup events in 2012, these measures require immediate attention and action. **02** [RE-7]

COM-240

Collectively our philanthropies – joined by over 5,000 generous donors from throughout our community – helped the Conservancy raise more than $36 million for this park that now attracts more than one million visitors each year.

We often say that Crissy Field is a park for all people. Its transformation ten years ago from a former military base with just 30 acres of usable space to a 100-acre urban national park was made possible because of the support of the entire Bay Area community. Now, we are asking that the city protect the enormous investment that our community has made, and continues to make, in restoring and sustaining this natural wonder, this beloved gathering place for people of all ages and from all backgrounds.

The organizers and sponsors of the America's Cup must be held accountable for ensuring that Crissy Field, as well as other locations in our community that will be impacted by these events, are left in pre-race condition. As the city works with the Event Authority to prepare the Parks Event Operations Plan described in the EIR, we strongly encourage you to devote special attention to developing solid, well-thought-out plans to:

1. define mitigation measures for Crissy Field; and
2. identify financial resources for event preparation and management, crowd safety and traffic control, and post-event repair and restoration.

We also request that the following elements are specifically referenced within the Final Environmental Impact Report:

1. mitigation measures relevant to national park sites affected;
2. commitment to the financial resources required to execute these measures; and
3. the specific timeframe for the commitment of these financial resources.

We know that the city shares our interest in protecting Crissy Field as a crown jewel in the Golden Gate National Park system and San Francisco. We look forward to a successful 34th America's Cup that showcases the beauty of our city while protecting its remarkable natural, civic and cultural resources for the generations to come. **03** [GEN-2, RE-7]

Direct responses to this letter can be addressed to Doug Overman, Deputy Director of the Golden Gate National Parks Conservancy at (415) 561-3025 or doverman@parksconservancy.org.

Thank you very much for your consideration.

Sincerely,

Walter J. Haas, Chair
Evelyn & Walter Haas, Jr. Fund

Robert and Colleen Haas

Pamela David, Executive Director
Walter & Elise Haas Fund

Kristine Johnson, Trustee
Timothy Dattels & Kristine Johnson Foundation

Jeffrey A. Farber, CEO
Koret Foundation

Charlene Harvey
Co-Chair, Campaign for Crissy Field

Randi and Bob Fisher

Toby Rosenblatt

R. James Slaughter, Trustee
Horace W. Goldsmith Foundation

Phil and Sue Marineau

Julie and Will Parish

cc: Senator Dianne Feinstein
Senator Barbara Boxer
Democratic Leader Nancy Pelosi
Ed Lee, Mayor, City and County of San Francisco
David Chiu, President, Board of Supervisors, City and County of San Francisco
Mark Farrell, Supervisor, District 2, City and County of San Francisco
Frank Dean, General Superintendent, Golden Gate National Recreation Area
Craig Middleton, Executive Director, Presidio Trust
Craig Thompson, CEO, America's Cup Event Authority
Mark Buell, Chair, America's Cup Organizing Committee

RICHARDSON BAY Audubon CENTER & SANCTUARY

August 25, 2011

Bill Wycko
San Francisco Planning Department
1650 Mission Street, Ste. 400
San Francisco, CA 94103

SUBJECT: Comments on the 34th America's Cup Races and James R. Herman Cruise Terminal and Northeast Wharf Plaza Draft EIR

Dear Mr. Wycko:

Thank you for providing the community with the opportunity to submit comments regarding the Draft Environmental Impact Report (DEIR) on the 34th America's Cup Races and James R. Herman Cruise Terminal and Northeast Wharf Plaza project.

Richardson Bay Audubon Center & Sanctuary (Audubon), a program of the National Audubon Society, manages a 900-acre marine sanctuary in Richardson Bay (see attachment). The sanctuary is closed to all human use every year from Oct. 1 to April 1 under a Richardson Bay Regional Authority ordinance to provide a safe resting and feeding place for migratory waterfowl. Year-round, we conduct restoration and research on different facets of bird and wildlife habitats in Richardson Bay, and work with partners on the whole of San Francisco Bay.

Audubon has several concerns regarding the DEIR for the America's Cup. A number of potentially significant negative impacts on wildlife and habitat are not addressed in the DEIR. Audubon would like to see the following matters addressed through plans put in place to avoid problems, and mitigation strategies developed in case they occur.

Eelgrass beds

Of primary interest to us are the eelgrass beds between Tiburon and Sausalito, which provide important food and habitat for much of the Bay's food web. Richardson Bay has one of the two largest intact eelgrass beds in the greater San Francisco Bay, half of this bed is in the Audubon Sanctuary, the other half extending towards the Sausalito waterfront. This critical habitat is highly sensitive to boat impact. A single large boat going through eelgrass when the tide is low can do irreparable damage to critical habitat. The DEIR needs to provide explicit strategies for physically marking the eelgrass beds, not just on maps, and to provide for additional enforcement officers to keep boats from anchoring in the eelgrass. **01** [BIM-4a]

Effluent discharge

376 Greenwood Beach Road / Tiburon, CA 94920 / Phone: (415) 388-2524 / richardsonbay.audubon.org

Audubon is very concerned about the potential for effluent discharge into the Bay by the hundreds of additional spectator boats anchoring and recreating near the Sausalito waterfront. Sausalito doesn't have the sanitary waste pump-out stations to handle this increase, or the enforcement capacity to patrol the area to ensure boats aren't dumping illegally. AC34 needs to provide for pump-out stations and additional officers to patrol. Besides the impacts to wildlife that effluent could have, Audubon also operates a summer camp, hosting 500 local children during the months of July and August. Our campers enjoy spending many hours searching for marine creatures in the water's edge on the Sanctuary's beaches. In addition, we often have scientists doing research in the water of the Sanctuary. Human effluent in our Bay waters would have an extremely negative impact on this community. **02** [UT-4, HY-9a, HY-9c]

Spectator impact

Audubon and the County of Marin are in the middle of a three-year, $2.4M project to restore Marin County's Aramburu Island Wildlife Preserve. This island, as well as Audubon's beaches, could appear to be an attractive recreational area for spectators looking to park their boats and walk around on land for a while. Increased human use of these vulnerable areas could prove detrimental to sensitive habitats, particularly the newly planted restoration site on Aramburu Island. The dates fall within peak shorebird migration through the SF Bay, so any increased disturbance to these birds could reduce their ability to successfully forage and rest.

The Draft EIR for the project recognizes potential impacts to recreational resource areas of special concern and recommends mitigation measures that will: 1) identify these areas; 2) provide crowd control; and 3) require post-event repairs. The Aramburu Island Preserve and the Richardson Bay Audubon Sanctuary (bay, beaches, and uplands) should be identified as recreational areas of special concern and incorporated into the mitigation measures. In addition, we recommend revising these mitigation measures to include baseline, during race, and post-race monitoring to provide a verifiable mechanism to identify impacts to these important parks. Finally, we are concerned that the race may result in unanticipated impacts to other recreation areas and we recommend that the mitigation measures allow for these areas to be considered for post-event repairs if there are documented impacts. **03** [IO-3a]

Flotsam, jetsam, and other marine debris

The Audubon Sanctuary lies at the northern reach of Richardson Bay, and the northwestern extent of San Francisco Bay. With the summer winds often coming from the south and southeast, a great deal of marine debris from throughout the Bay ends up on our beaches. Audubon would like the EIR to provide for ongoing patrolling and clean-up of all the beaches in the bay, particularly those in San Francisco Bay, to stay on top of what we anticipate to be a huge increase in marine debris associated with AC34 and its spectators. **04** [HY-9e]

Thank you again for the opportunity to comment. We are hopeful that our input will assist in clarifying the areas of the Draft EIR that warrant further clarification and improvement, and we look forward to seeing these changes reflected in the Final EIR Response to Comments. If you have any questions or would like to discuss this matter further, please contact me at this office.

Sincerely,

Brooke Langston
Center Director

O-RDCE2

ROUND THE DIAMOND
Sports & Public Service Pathways
Consulting & Educational Services
Team & Sports Psychology — College & Career Guidance
Dennis G MacKenzie, M.A
www.RoundTheDiamond.com
DennisMacKenzie@RoundTheDiamond.com
346 Precita • San Francisco, CA 94110 USA • Ph/Fax (415) 648-5655

August 22, 2011

San Francisco Planning Commission:
Honorable Christina Olague, President
Honorable Ron Miguel, Vice President
Honorable Michael J. Antonini
Honorable Gwyneth Borden
Honorable Rodney Fong
Honorable Katherine Moore
Honorable Hisashi Sugaya

C/o Ms. Linda D. Avery, Commission Secretary

San Francisco Planning Commission
1650 Mission Street, Suite 400
San Francisco, CA 94103

Re: Planning Commission Meeting / August 11, 2011 / Commission Chambers – Room 400
City Hall, 1 Dr. Carlton B. Goodlett Place

Agenda Item #7 / 2010.0493E (J. Navarrete: (415) 575-9040)

THE 34th AMERICA'S CUP AND JAMES R. HERMAN CRUISE TERMINAL AND NORTHEAST WHARF PLAZA PROJECTS DRAFT ENVIRONMENTAL IMPACT REPORT
Public Hearing on the Draft Environmental Impact Report.

Round The Diamond / Proposal:
Construction of a "Marine Science Career Pathway / Field Study Academy

Dear President Olague and Commissioners,

I am writing this letter to you in response to the America's Cup/Environmental Impact Report. This letter is also intended to briefly describe and expand on my written communication and oral presentation I made at the Planning Commission Public Hearing held on August 11, 2011.

The proposal that I have shared with you requesting that the America's Cup project include the design and construction of a Marine Science Career Pathway/Field Study Academy, is intended to offer our San Francisco Unified School District high schools a practical, real-world education and career development facility accessible to benefit our local students and youth on a year-round basis, for generations to come. 01 [GEN-5]

COM-243

O-RDCE2

The long-term purpose of this facility includes providing our students with the ability to observe and learn first-hand the necessary cooperative collaboration of public sector agencies such as the San Francisco Planning Commission and Port Commission, and the private sector business and corporate entities that are essential in order to design and construct projects such as the America's Cup on City and State public lands and waterfront environments. The practical knowledge necessary that is studied, researched and learned regarding the critical waterfront and marine environments for the future success of our San Francisco community will benefit all sectors – both public and private.

Because it is mandated that all these projects must go through the process of Environmental Impact Reports, this America's Cup development - and all Port of San Francisco property projects - offer our government, corporate and educational leaders the opportunity to create real-world educational and career skills and experiences essential for the success of our San Francisco High School and College age students. This EIR is inherently a positive educational methodology that can enhance our interdependent goals and objectives of providing our youth and local businesses with a training program that will expand and improve our long term incentives and visions for all City and County of San Francisco citizens and communities. 01 [GEN-5] cont.

Please review the proposal material I have shared with you, City and County of San Francisco public officials including Mayor Lee, the Board of Supervisors, the Port of San Francisco and the Port Commission. Additional communications and brief summaries of my proposal can be reviewed on my website: RoundTheDiamond.com.

Once again, I am respectfully requesting as an integral element of this America's Cup project, that a Marine Science Career Pathway/Field Study Academy be included as a permanent, year-round high school facility located along the waterfront in collaboration with Mr. Larry Ellison and his team of investors, the Port of San Francisco, the City and County of San Francisco, San Francisco Chamber of Commerce and the San Francisco Unified School District.

Thank you for your continued work on creating long-term, well balanced and comprehensive benefits as a part of this America's Cup project; and thank you for your time, consideration and support for including our youth and students as critical benefactors throughout the entire process.

I look forward to working with all parties concerned in creating a model, far-sighted vision that this America's Cup project can offer all the citizens and youth of San Francisco, the Bay Area and beyond.

Sincerely,

Dennis G. MacKenzie

CC:
San Francisco Port Commission; Port of San Francisco
C/o Ms. Amy Quesada, Commission Secretary/Executive Assistant

SAN FRANCISCO
ARCHITECTURAL
HERITAGE

BOARD OF
DIRECTORS

Charles R. Olson
President

Aleta N. Esterkamp Allbin
Bruce Bonacker
Kathleen Burgi Sandell
David Cannon
Jeff Gherardini
Nancy B. Gille
Scott Haskins
Nancy Goldenberg
D. Michael Kelly
Carolyn Kiernat
Frederic Knapp
Jon Knorpp
Benjamin F. Ladomirak
Arnie Lerner
Thomas A. Lewis
Chandler W. McCoy
Patrick M. McNerney
Willett Moss
Mark Paez
Mark P. Sarkisian
Neil Sekhri
Zander Sivyer
Douglas Tom
Christopher VerPlanck
David P. Wessel

Mike Buhler
Executive Director

2007 FRANKLIN ST
SAN FRANCISCO
CALIFORNIA 94109

TEL 415-441-3000
FAX 415-441-3015
www.sfheritage.org

COM-244

August 25, 2011

Bill Wycko
Environmental Review Officer
San Francisco Planning Department
1650 Mission Street, Suite 400
San Francisco, CA 94103

Re: 2010.0493E – Draft EIR for The 34th America's Cup Races and James R. Herman Cruise Terminal and Northeast Wharf Plaza

Dear Mr. Wycko:

Thank you for the opportunity to comment on the Draft Environmental Impact Report (DEIR) for The 34th America's Cup Races and James R. Herman Cruise Terminal and Northeast Wharf Plaza. Founded in 1971, San Francisco Architectural Heritage is a non-profit 501c3 membership organization charged to preserve and enhance San Francisco's unique architectural and cultural identity. This year, Heritage is celebrating the release of its new book, *Port City: The History and Transformation of the Port of San Francisco, 1848-2010*, by Michael Corbett.

The project site is located within the Port's Embarcadero National Register Historic District, which boasts the most intact collection of early 20th century finger piers in the country. Given the lack of information about potential projects under long-term development rights granted in the Host Agreement, our comments are limited to potential adverse impacts on historic resources resulting from the AC34 races, proposed cruise terminal and Northeast Wharf Plaza.

I. The EIR should compare different treatment options for Pier 29 and identify the most appropriate treatment under the *Secretary of the Interior's Standards for Rehabilitation*

Constructed in 1915-1918, Pier 29 consists of a reinforced-concrete substructure measuring 161 by 800 feet, a steel-frame transit shed with reinforced concrete walls, and a timber-frame stuccoed bulkhead building. In 1965, Pier 29 was extended about 75 feet further into the Bay and joined to a new Pier 27 to form a triangular quay-type pier. Both the Pier 29 shed and bulkhead are identified as contributing resources to the Embarcadero Historic District. 01 [CP-3]

As described in the DEIR, the proposed project would demolish the jagged, diagonal edge of Pier 29 up to the last complete bay in order to "rationalize" and

square off the end. This would require removal of approximately 200 feet of the pier on its northwest edge, including historic materials "such as roof monitors, structural columns, roof trusses, cargo doors and steel sash windows."[1] The DEIR concludes that the proposed treatment will have a less-than-significant impact on Pier 29 based on an analysis "by a consulting architectural historian," but does not include this report in the appendices.[2] At its August 17, 2011 meeting, the Historic Preservation Commission (HPC) requested that the EIR evaluate two additional options: (1) retention of the jagged edge, and (2) reconstruction the shed to its original configuration during the period of significance. 01 [CP-3] cont.

Given lingering uncertainty surrounding the proposed treatment of Pier 29, the Final EIR should include measured drawings depicting the extent to which historic fabric will be removed. It should also attach the consultant's analysis of impacts on Pier 29's already-diminished historic integrity and provide substantiation for the most appropriate treatment option—whether squaring off the end, retaining the jagged edge, or full reconstruction.

II. The size and location of the proposed Northeast Wharf Plaza and cruise terminal are inconsistent with character-defining features of the Embarcadero National Register Historic District

Because the proposed cruise terminal is much smaller than other transit sheds in the historic district, it does not maintain the massing, size and scale that is typical of properties on the waterfront side of the Embarcadero. In addition, the setback required by the Northeast Wharf Plaza would create a large gap in the urban edge formed by bulkhead buildings in the district. 02 [CP-7, CP-8]

The following excerpt from the Port's Design Guidelines for the Northeast Wharf Plaza provides useful guidance on how new structures in this area should reference character-defining features of the historic district:

> To acknowledge the monumental scale and civic character of the historic bulkhead buildings, new structures should have substantial height, massing and forms which may be accomplished with tall ground floor heights, walls with large sections of solid and void, strong cornice features, and prominent entries. This may be accomplished with a symmetrical façade to the front of the new structures that features a wide central storefront with doors and

[1] DEIR at 5.5-88.
[2] *Id.*

windows to the base, and flanked with solid sections that have fewer or smaller amounts of glazing.[3]

The contemporary design of the cruise terminal does not meet the general spirit of this guideline, nor does the DEIR include a design option showing a monumentally-scaled structure in the Northeast Wharf area that reflects the height, form and massing of other buildings in the district.[4]

The vast amount of open space surrounding the proposed cruise terminal—including the Northeast Wharf Plaza, expansive surface parking, and traffic/truck circulation lanes—creates a "gap tooth" in the continuous border of bulkhead buildings that define the waterfront side of the Embarcadero. With the exception of Pier 40, which has been significantly altered, all piers either have a bulkhead building along the Embarcadero or a transit shed extending to the front (west) end of the pier. This border of transit sheds and bulkhead buildings is a character-defining feature of the historic district. By setting the new cruise terminal back on the site, the relationship of transit shed/bulkhead building to the Embarcadero will be lost. As noted by the HPC on August 17, 2011, the size and location of the cruise terminal would make it the only "object building" on the historic waterfront other than the Ferry Building.

02 [CP-7, CP-8] cont.

Although Pier 27 itself is not historic, the Pier 27 site is within the boundary of the historic district. As a result, the design of a new building on this site should respond to the character-defining features of the district, including the organizing pattern of piers and transit sheds. The Embarcadero National Register Historic District Nomination describes these features as follows:

- Piers: "Piers are generally perpendicular to the seawall, and extend from the seawall and bulkhead wharf into the bay to distances of 700 feet or more. Most piers consist of three component elements. One is the pier *substructure*, which consists of *pilings*, *caps* that span the pilings, and a *deck* that rests upon the caps. Another element is the *transit shed,* an enclosed space that rests upon, and covers most of the pier deck. The transit shed is a short-term warehouse for goods in transit—shipped goods

[3] Memo from Architectural Resources Group to Mark Paez, Preservation Planner, Port of San Francisco, June 6, 2011 (DEIR at CP3-6).
[4] "The development of the Northeast Wharf Plaza is a future project for which design documents have not been fully realized." Memo from Architectural Resources Group to Mark Paez, Preservation Planner, Port of San Francisco, June 6, 2011 (DEIR at CP3-6).

that recently arrived in port, or goods that are about to be shipped. The third part is the *bulkhead building*, which is also an enclosed space resting on the bulkhead wharf. The bulkhead building is located in front of the transit shed, near the Embarcadero."

- Transit Sheds: "...The roof of a transit shed generally has an extremely shallow pitch, and is almost flat. ...Roofs are composed of wood planks that rest upon trusses [although some] have concrete roofs. All transit shed roofs have monitors that admit light. Most of these monitors run continuously from the front of the transit shed to the rear wall. ...The exterior rear walls of transit sheds always have a restrained architectural treatment, compared to the elaborate treatment of bulkhead buildings, but the treatment is seldom plain. Arched window and door openings, molded piers, and simple cornice moldings convey a sense of style, generally of restrained classicism.

02 [CP-7, CP-8] cont.

In some respects, the proposed cruise terminal design successfully incorporates and translates character-defining features in contemporary form, including an undulating shallow pitch roof, the restrained character of the east elevation, and an offset roof plane that creates a clerestory window to let light into the building. But its design and location do not reflect the organizing structure of historic transit sheds and bulkhead buildings that extend from the bulkhead wharf into the Bay. As further explained below, the EIR should evaluate an alternative that incorporates a bulkhead along the Embarcadero and pushes the open space to the end of the piers.

III. The EIR should evaluate an alternative that incorporates a bulkhead along the Embarcadero and relocates public open space to the end of Piers 27-29 in lieu of the proposed Northeast Wharf Plaza

The purpose of the EIR is to describe and analyze possible alternatives that would reduce or avoid significant adverse impacts. The range of alternatives analyzed in the EIR should include those "that could feasibly accomplish most of the basic objectives of the project and could avoid or substantially lessen one or more of the significant effects." CEQA Guideline § 15126.6(c). To reduce negative impacts on the historic district, the EIR should include an alternative that would relocate public open space to the end of Piers 27-29 and enable the new cruise terminal building to abut the Embarcadero.

03 [CP-8]

Although we understand that the size, location and configuration of the 87,120-square-foot Northeast Wharf Plaza are specified by the *San Francisco Waterfront*

Special Area Plan (SAP), it appears that many of its goals and objectives could be better realized if the plaza were relocated to the end of Piers 27-29 (i.e. public access to the waterfront, preserving and enhancing views to the Bay, maximizing the public's enjoyment of the waterfront, and minimizing conflicts between vehicles, bicyclists and pedestrians).[5] Although not stated in the DEIR, we understand that the Port is refining the cruise terminal design to minimize the presence of the sallyport and encourage public access to the end of Piers 27-29, and the long-term use of the 160,000-square-foot viewing area is currently the subject of a design competition. Relocating the plaza to the end of Piers 27-29 would not only reduce impacts on the historic district, but would provide more public open space, unobstructed views to the Bay, and more immediate access to the waterfront. **03** [CP-8] cont.

IV. The EIR should provide additional safeguards to ensure that conceptual-level projects comply with the *Secretary of the Interior's Standards*

The DEIR states that proposed alterations to historic Piers 26, 28, 19 and 23 will be consistent with the *Secretary of Interior's Standards for Rehabilitation*, even though no designs are currently available for review. There is no mandatory role for the HPC in evaluating future projects within the historic district. Absent renderings of these projects in the EIR, the existing mitigation measures should be augmented to ensure future opportunities for public input. One possible option is to appoint an advisory committee with representatives of the HPC, Planning Department, San Francisco Architectural Heritage, and neighborhood stakeholders (modeled after a similar committee for the National Register District nomination) to review projects contemplated by the EIR for compliance with the *Secretary of the Interior's Standards*. **04** [CP-10]

V. The EIR should clarify that potential projects under long-term development rights will be subject to full environmental review under CEQA

Under the AC34 Host Agreement, the Event Authority will be granted long-term development rights commensurate with their investment in infrastructure, including "legacy leases and a transfer agreement on the satisfaction of certain conditions." Consequently, the proposed project could lead to potential long-term development at Piers 30-32, Seawall Lot 330, and Piers 28, 26, 19, 19½, 23, and **05** [CP-10, IO-5]

[5] In addition, the EIR should consider whether views from the Northeast Wharf Plaza will be obstructed by the cruise terminal, ships berthed at Pier 27, and the proposed retention of the Pier 23 shed.

29, the Brannan Street Wharf (Piers 32-36) Open Water Basin, and the Rincon Point (Piers 14-22½) Open Water Basin. On the one hand, the DEIR states that its review of long-term development options is limited to "a conceptual level" because there is no detailed, project-specific information; on the other, it purports to ensure "comprehensive environmental review of the project as a whole."[6] To eliminate any confusion surrounding the level and depth of future environmental review, the Final EIR should confirm that any potential project under long-term development rights will receive "project level" review under CEQA when the specific details of that project become known. **05** [CP-10, IO-5] cont.

On behalf of San Francisco Architectural Heritage, thank you for the opportunity to comment on the DEIR for The 34th America's Cup Races and James R. Herman Cruise Terminal and Northeast Wharf Plaza. Please do not hesitate to contact me at mbuhler@sfheritage.org or (415) 441-3000 x15 should you have any questions or need additional information.

Sincerely,

Mike Buhler
Executive Director

[6] DEIR at 5.1.4.

O-SFBA

SAN FRANCISCO BOARDSAILING ASSOCIATION
1592 UNION STREET, BOX 301 • SAN FRANCISCO, CALIFORNIA 94123

August 15, 2011

Mr. Bill Wyko
Environmental Review Officer
Planning Department, City of San Francisco
1650 Mission Street, Suite 400
San Francisco, CA 94103
Bill.wyko@sfgov.org

Subject: Comments on the Draft Environmental Impact Report for the 34th America's Cup and the need to acknowledge and fully address Impacts to the Recreational Uses of Windsurfing and Kiteboarding on San Francisco Bay

COM-247

Dear Mr. Wyko:

This letter provides comments with respect to the content and proposed findings of the Draft Environmental Impact Report (DEIR) for the 34th America's Cup (AC34 Event).

The San Francisco Boardsailing Association (SFBA) is a California not-for-profit organization founded in 1986 to protect and enhance boardsailing access, and to promote boardsailing safety and related education in the San Francisco Bay Area. To this end, SFBA actively participates in the planning processes for special events, development, reuse and redevelopment of public and private properties adjacent to San Francisco Bay and the Pacific Ocean which may enhance, threaten and/or directly or indirectly impact the recreational uses of Windsurfing and/or Kiteboarding.

As sailors and kiters on San Francisco Bay, SFBA is excited about San Francisco's hosting of the America's Cup and believe it can be accomplished in a balanced manner.

SFBA's main concern with the AC34 Event (Project) as proposed is the profound denial of the DEIR to acknowledge and evaluate the project-related direct and significant impacts to those existing recreation and fitness activities which take place daily from March through October on San Francisco Bay via access from proposed AC34 Venues. It is clear that should the project proceed as described, the World-Class recreational uses of windsurfing and kiteboarding from the Golden Gate Bridge to the San Francisco City-Front will at best be severely restricted and at worst be completely prohibited. This will be due to on-water restrictions during AC34 races, and unmanageable traffic congestion and site overuse resulting in adequate access to and/or parking within Crissy Field, the St. Francis Yacht Club Beach and Fort Baker (Cavallo Point) during those periods of AC 34 activity in 2012 and 2013. 01 [RE-4]

O-SFBA

SAN FRANCISCO BOARDSAILING ASSOCIATION
1592 UNION STREET, BOX 301 • SAN FRANCISCO, CALIFORNIA 94123

SFBA's largest disappointment in the DEIR project proposal process lies in its simplification of the CEQA (California Environmental Quality Act) position - taken throughout the document - that only a direct physical impact on a recreational facility (e.g., physical damage or excessive wear-and-tear, etc.) could be a significant impact. This position is not only analytically evasive in the context of this project, it flies directly in the face of the intent of local, state and national law and policy (e.g., BCDC's Bay Plan, the National Park Service and GGNRA, etc.) and SFBA's previous discussions with the San Francisco America's Cup Organizing Committee (SFACOC), the AC34 Event Authority and the AC34 Principal of Race (POC), all of whom are aware of the potentially significant impacts to windsurfing and kiteboarding access along the San Francisco shoreline during 2012 and 2013. 01 [RE-4] cont.

SFBA maintains that the estimated 75,000 visitors to Crissy Field on a peak weekend day in 2012, and 77,000 per peak weekend day in 2013 is an abusive overuse of the Crissy area, resulting in limited-to-prohibited parking, and traffic congestion that will make the mid-afternoon trip to the Crissy East Beach undoable.

Windsurfing and kiteboarding at Crissy Field is primarily for advanced boarders, and the participants cross all socio and economic boundaries. The sports are equipment intensive, thus they require a vehicle in which to transport boards, kites, sails, masts and booms… and adequate surface-friendly, non-pavement space (e.g., grass or grass-crete) at the launch sites to safely assemble gear.

Given the array of high-tech equipment used, the majority of windsurfers launching at Crissy need a minimum of 15 knots of wind to be able to sail… some kiteboarders can launch with less; this usually occurs between 2:00 PM and 6:00 PM each day of the season. Thus, during AC 34 races, even if existing windsurfers and kiteboarders could reach Crissy Field or the St. Francis YC Beach and find a parking spot in the mid-afternoon when the winds become strong enough to sail, the on-water Race-Area restrictions from 1:00 PM to at least 5:00 PM each day will effectively prohibit anyone from launching while the winds are suitable. 02 [RE-4]

The DEIR provides the following opinion:

> *"It is likely that on peak use days, some recreationists who currently use Marina Green, Crissy Fields, and Aquatic Park for activities such as dog walking, running, and kite flying and for access to shoreline areas for swimming, fishing, kayaking, and surfing would not want to use these areas due to the size of crowds, spectator support facilities, and nearshore spectator boats present for America's Cup events. Some recreationists may instead use other similar regional recreational facilities and shoreline areas, including those described in Section 5.11.1, Setting (e.g., the Presidio, other Crissy Field or Fort Mason areas), as well as other nearby resources such as Golden Gate Park, Baker Beach, and Ocean Beach, resulting in occasional increases in use of other recreational facilities in San Francisco during the AC34 events. However, given the availability of recreational facilities in the region,*

SAN FRANCISCO BOARDSAILING ASSOCIATION
1592 UNION STREET, BOX 301 • SAN FRANCISCO, CALIFORNIA 94123

increased use of regional recreational facilities would not result in substantial physical deterioration of recreational resources, or otherwise result in physical degradation of existing recreational resources, and the impact would be less than significant."

The World-Class recreational uses of windsurfing and kiteboarding at Crissy East Beach and the St. FYC Beach are irreplaceable because of the geography and wind conditions unique to the Golden Gate. Thus, counter to the above statement in the DEIR that recreational users can and will go somewhere else given the abundance of Bay Area recreational facilities; this is not the case for these recreational uses. In addition, should the hundreds of windsurfers and kiteboarders who frequent Crissy Field have the time and resources to travel to other parts of SF Bay, those limited access points would quickly become overwhelmed. **02** [RE-4] cont.

The DEIR also fails to individually acknowledge each of the large variety of sports and the different population segments they serve, and it fails to identify the different specific locations in which these sports are pursued. Because it fails to accurately portray each of the sports and the specific locations and timeframes in which they are possible, the DEIR is inaccurate and incomplete. It is expected that the DEIR fully analyze the different sports and their different users in their different locations, for impacts on land use, traffic, community health, noise and other effects.

In addition, the above comment regarding "*the availability of recreational facilities in the region*" as a viable alternative completely ignores 1) the time available and ability of users living within the AC 34 impacted community to use these other facilities; and 2) the impacts on regional transportation, congestion and air pollution. **03** [RE-4, RE-6]

Significance Determinations (DEIR Chapter 5.1.2)

As stated in the DEIR: "The purpose of an EIR is to identify the significant effects on the environment of a project, to identify alternatives to the project, and to indicate the manner in which those significant effects can be mitigated or avoided. Mitigation measures are not required for effects that are not found to be significant. As defined by CEQA Guidelines section 15382:

> *"Significant effect on the environment" means a substantial, or potentially substantial, adverse change in any of the physical conditions within the area affected by the project including land, air, water, minerals, flora, fauna, ambient noise, and objects of historic or aesthetic significance. An economic or social change by itself shall not be considered a significant effect on the environment. A social or economic change related to a physical change may be considered in determining whether the physical change is significant. The conclusion of each impact analysis provides a significance determination to indicate if mitigation measures are warranted."*

04 [RE-4]

SAN FRANCISCO BOARDSAILING ASSOCIATION
1592 UNION STREET, BOX 301 • SAN FRANCISCO, CALIFORNIA 94123

The DEIR takes the position of the CEQA guideline above which essentially states that only a direct physical change to recreational facilities can be found to have a significant impact, and that the restrictions and prohibitions that the proposed AC34 Event will place upon the existing recreational uses of windsurfing and kiteboarding are instead economic or social changes. It concludes that these recreational changes (economical or social changes), although significant in and of themselves, shall not be considered a significant effect on the environment.

However, these significant changes in existing recreational uses are a direct impact of the physical changes in transportation and circulation congestion, just as the effect of sitting-in-traffic is an impact. Thus they should weigh-in on the increased significance determination of the transportation and circulations impacts, and, while the project sponsor works to mitigate or reduce the effects of sitting-in-traffic, they should also work to mitigate the effect of restricting and prohibiting the existing recreational uses of windsurfing and kiteboarding. **04** [RE-4] cont.

The DEIR finds that most of the Transportation and Circulation Impacts are "SUM – Significant and Unavoidable with Mitigation" - SFBA maintains that mitigation of the restriction and/or prohibition of an existing recreational use due to the significant and unavoidable Transportation and Circulation Impacts should indeed be a focus of the warranted mitigation measures. Examples of mitigation measures which might lessen but not eliminate the impacts could include 1) improved launch facilities at Cavallo Point in Fort Baker, 2) windsurfer and kiteboarder access-only privileges at Crissy, StFYC and Fort Baker, and 3) vastly improved launch facilities at the northern end of Treasure Island.

Approach to Analysis of Environmental Settings, Impacts and Mitigation

The DEIR states that:

> *"Recreational opportunities within the central portion of San Francisco Bay are considered in this analysis since the proposed America's Cup race course would be within the Central Bay. The Bay is a widely popular place for in-water recreation activities such as wind surfing, kayaking, boating, and fishing. The Central Bay is generally bounded by the Richmond-San Rafael Bridge to the north; the cities of Richmond, Berkeley, and Emeryville to the east; the Bay Bridge to the south; and the Golden Gate Bridge to the west."*

05 [RE-4]

SFBA is aware, however, that the DEIR is a CEQA document and that the impact analysis does not address disruption to or use of existing recreational facilities. Rather, consistent with the CEQA significance criteria, the impact analysis only addresses the potential for substantial physical adverse effects on recreational resources/facilities.

SAN FRANCISCO BOARDSAILING ASSOCIATION
1592 UNION STREET, BOX 301 • SAN FRANCISCO, CALIFORNIA 94123

The DEIR states that existing local planning documents and maps were reviewed to identify, where available, the location, use types, use levels, capacity, and sensitivity of resources of recreational facilities in the project area that, because of their proximity, could be directly or indirectly affected by the project. It also maintains that to determine the potential for project activities to cause direct physical effects on recreational resources (i.e., physical deterioration of facilities, acceleration of physical deterioration of facilities, or physically degrade existing resources), the proposed construction and operations at project sites were compared with existing usage of identified recreational resources at or near those sites.

It also states that potential indirect effects on recreational resources were identified through the same means, as well as by reviewing the impact findings presented in other pertinent sections of the DEIR. Indirect effects on recreational resources that can result from impacts on other environmental resources include traffic hazards along recreational routes or impeded access to recreational resources (see Section 5.6, Transportation and Circulation). The DEIR also maintains that the results of the impact analyses on these other environmental resources were used to inform the recreational impact analysis. 05 [RE-4] cont.

With all the work put into the analysis of environmental settings, impacts and mitigation, SFBA would like to know: 1) Why recreational opportunities within the central portion of San Francisco Bay are not considered more thoroughly in this analysis; and 2) Why the direct and indirect impacts on existing water contact recreational access and uses such as windsurfing and kiteboarding were not identified, if for no other reason than to do a thorough job in determining the significance of physical changes and identifying relevant potential mitigation measures?

The DEIR also reminds us that under CEQA, the Lead Agency may evaluate impacts on existing recreational resources in the context of the availability of similar recreational resources to the public. Physical degradation of, or short-term disruption of access to a recreational facility, does not automatically result in a finding of a significant recreational impact under CEQA if the public has access to alternative, similar resources during that period. 06 [RE-4]

Again, SFBA would like to remind the Lead Agency that the windsurfers and kiteboarders who frequent the waters off of Crissy Field East Beach presently have NO ALTERNTIVE or SIMILAR RESOURCES available.

In determining the potential effects of the AC34 events on recreational resources, we are told that the DEIR considers the multiple implementation plans presented in Chapter 3, including the People Plan, the Water and Air Traffic Plan, the Public Safety Plan, and the Parks Event Operations Plan. It is our understanding that these implementation plans, along with ongoing agency coordination efforts for regional planning and design of the AC34 event facilities, are intended in part to minimize disruption 07 [RE-4]

SAN FRANCISCO BOARDSAILING ASSOCIATION
1592 UNION STREET, BOX 301 • SAN FRANCISCO, CALIFORNIA 94123

to or use of existing recreational resources. However, these and other plans referenced in the DEIR are missing, to be published separately or later in 2011 or beyond.

The DEIR also states that temporary disruption of the existing visitor experience at recreational facilities is acknowledged as a potential consequence of the AC34 events, and that these disruptions are being addressed through the AC34 events planning and design process, including the implementation plans and the National Environmental Policy Act (NEPA) analysis to be completed by NPS. 07 [RE-4] cont.

SFBA would like to know how the DEIR can be considered adequate and complete without the referenced implementation plans and the necessary coordination between them?

Significance Criteria

The DEIR states that the City has not formally adopted significance standards for impacts related to recreation, but generally considers that implementation of the project could have a potentially significant impact related to recreation if it were to:

- *"Increase the use of existing neighborhood and regional parks or other recreational facilities such that substantial physical deterioration of the facilities would occur or be accelerated;"*
- *"Include recreational facilities or require the construction or expansion of recreational facilities that might have an adverse physical effect on the environment;" or*
- *"Physically degrade existing recreational resources."*

SFBA would like to know: Why has the City not adopted significance standards for impacts to recreation? 08 [RE-4]

SFBA would also like to know: Should the City adopt significance standards, would they include: "Inhibit or prohibit access to shoreline facilities or water-contact recreational uses?"

It is our understanding that the City also has not formally adopted significant standards for impacts related to land use, but generally considers that implementation of projects could have a potentially significant impact related to land use if the projects were to:

- *"Physically divide an existing community;"*
- *"Conflict with any applicable land use plan, policy, or regulation of an agency with jurisdiction over the project (including but not limited to the general plan, specific plan, local coastal program, or zoning ordinance) adopted for the purpose of avoiding or mitigating an environmental effect;" or*
- *"Have a substantial impact on the existing character of the vicinity."*

SAN FRANCISCO BOARDSAILING ASSOCIATION
1592 UNION STREET, BOX 301 • SAN FRANCISCO, CALIFORNIA 94123

SFBA would like to know: Why has the City not adopted significance standards for impacts to land use? 08 [RE-4] cont.

Local / State Law and Policy

Windsurfing is a class of recreation that is protected in State policy beginning with the Constitution, and continuing through to the legislation that establishes the Bay Conservation and Development Commission (BCDC), the Navigational Code that is the framework for Berkeley's management of the marina, and most recently legislation establishing a Bay Water Trail on San Francisco Bay. The policy framework begins with Section 4 of Article 10 of the Constitution that provides:

> "No individual … shall be permitted to exclude the right-of-way to such water … or obstruct the free navigation of such water; and the Legislature shall enact such laws as will give the most liberal construction to this provision, so that access to the navigable waters of the State shall always be attainable for the people thereof. "

Such liberal interpretation is given in both the McAteer-Petris Act and the Navigation Code. The former provides that:

> "…existing access to the shoreline and waters of the San Francisco Bay is inadequate and that maximum feasible public access, consistent with a proposed project, should be provided."

Further guidance is given in Public Resources Code Section 66690 et seq. where the Legislature declared:

> "Water–oriented recreational uses of San Francisco Bay, including …sailboarding…are of great benefit to the public welfare of the San Francisco Bay Area."

Further goals, articulated under the State's constitutional authority (Section 66692(d)) include

> "…improving access to, within, and around the bay…" (Section 66691(f).)

Thus, windsurfing falls within the provisions of the Constitution, and represents a fundamental right that may not be abridged without due process, and may not be abridged without substantial and compelling evidence to support that restriction

SFBA believes that these policies should be cited in the development of significance criteria, and in analyzing the impacts of the America's Cup races, proposed shoreline facilities, usurpation of parking, and proposals to restrict access onto the Bay from recreational sites such as Crissy Field and the beach at the St. Francis Yacht Club. These are all public beaches to which these policies apply. 09 [RE-4]

SAN FRANCISCO BOARDSAILING ASSOCIATION
1592 UNION STREET, BOX 301 • SAN FRANCISCO, CALIFORNIA 94123

The Bay Plan was amended in 2006 to give more protection to access onto the water. Citations include:

- Policy 3 g. Sandy beaches should be preserved... for recreational use...
- Policy 4: To assure optimum use of the Bay for recreation, the following facilities should be encouraged in waterfront parks...
  - (a) (4) public launching facilities for a variety of ...water-oriented craft, such as ...sailboards...should be provided in waterfront parks where feasible, [and]
  - (5) ...commercial recreation facilities should be permitted within waterfront parks provided they are clearly incidental to the park use...and do not obstruct public access to and enjoyment of the Bay..."

In closing, SFBA maintains that windsurfing, kiteboarding and other recreational uses are fundamental rights, and that disruption of the ability to do so for extended periods of time must be considered a significant impact. For the multiple reasons described above, SFBA considers the DEIR inaccurate and incomplete. 09 [RE-4] cont.

Sincerely,

William Robberson

William Robberson, President
San Francisco Boardsailing Association
BillRobberson@sfba.org

Cc: Rick.cooper@sfgov.org
Linda.avery@sfgov.org

San Francisco Bicycle Coalition
833 Market Street, 10th Floor
San Francisco CA 94103

T 415 431 BIKE
F 415 431 2468

sfbike.org

25 August, 2011

Environmental Review Officer
San Francisco Planning Department
1650 Mission Street, Suite 400
San Francisco, CA 94103

RE: Comments on Draft Environmental Impact Report for the 34th America's Cup and James R. Herman Cruise Terminal and Northeast Wharf Plaza

On behalf of the 12,000 members of the San Francisco Bicycle Coalition (SFBC), I hereby submit our comments on the Draft Environmental Impact Report (DEIR) prepared for 34th America's Cup (AC34) and James R. Herman Cruise Terminal and Northeast Wharf Plaza published July 11, 2011. Bicycle transportation to and through the AC34 event area will be essential to the events' success in the summer of 2012 and 2013, to facilitate and manage and mitigate the movement of the tremendous numbers of people expected to come to the city's waterfront to participate in these events. **01** [TR-8b]

COM-251

1. Overall: Without a resolved People Plan (including Transportation Management Plan) and Sustainability Plan it is difficult to say whether this DEIR is adequate – the People Plan should not only protect the city's existing and established bicycle circulation and storage system, it should make ambitious circulation improvements for bicycle traffic and storage for the sake of AC34 and beyond. This DEIR needs to study and clear the potential impacts of bicycle circulation mitigations and enhancements that will be developed as part of the People Plan and Sustainability Plan.

2. Add Polk Street to the inventory of significant Local Roads in section *5.6.1.1 Regional and Local Roadways*. Polk Street is a significant bicycle (SF Bicycle Route 25) and transit (Muni Route 19) route to the event area. With the Civic Center planned to be a transportation hub for AC34 events, Polk St will be an essential corridor for carrying bike traffic to and from the northern waterfront on event days. **02** [TR-1c]

3. Add Columbus Avenue to the inventory of significant Local Roads in section *5.6.1.1 Regional and Local Roadways*. Columbus Avenue is a significant bicycle (SF Bicycle Route 11) and transit (Muni Routes 30 & 41) route to the event area, and interconnects with other key bicycle routes to the northern and eastern waterfront.

4. Add Market Street to the inventory of significant Local Roads in section *5.6.1.1 Regional and Local Roadways*. Market Street is a significant bicycle (SF Bicycle Routes 20 & 50) and transit (numerous Muni Routes) route to the event area.

5. Provision of expanded bicycle access on transit (Muni, BART, Caltrain, AC Transit, Golden Gate Transit) should be identified and catalogued in section *5.6.3.2 Project Transportation Improvements Assumptions*. DEIR is mute on how operators (notably BART) would handle the increased ridership while still accommodating bicycles. **03** [TR-8a]

6. Provision of expanded bicycle parking should be discussed in greater detail in section *5.6.3.2 Project Transportation Improvements Assumptions*. DEIR should include a summary discussion of types of bicycle parking (attended/valet bike parking, self-service bike parking clusters, short-term sidewalk racks) and anticipated supply needs and locations. In particular, an existing bicycle

parking resource at the SF Caltrain terminal is operating well beyond its planned capacity, and requires immediate attention to address this capacity shortfall, for the sake of AC34 events as well as the ongoing conduct of regional transit and protection of the original investment made in the facility. The operating agreement for the Caltrain bike parking facility is expiring, and focused attention and resources must be brought to the matter promptly. **03** [TR-8a] cont.

7. Provision of expanded bicycle rental services should be discussed in greater detail in section *5.6.3.2 Project Transportation Improvements Assumptions*.

8. DEIR presents inadequate information to substantiate assertion at *Impact TR-29: Implementation of the AC34 2012 events would not create potentially hazardous conditions for bicyclists or otherwise substantially interfere with bicycle accessibility to the project sites and adjoining areas. (Less than Significant)*. Without a fuller declaration of mitigations and enhancements to bicycle circulation, in the form of route enhancements and parking provision, this assertion is unsupported. **04** [TR-8b]

9. DEIR presents inadequate information to substantiate assertion at *Impact TR-30: Implementation of the AC34 2012 events would not create potentially hazardous conditions for bicyclists or otherwise substantially interfere with bicycle accessibility at secondary viewing areas. (Less than Significant)*. Without a fuller declaration of mitigations and enhancements to bicycle circulation, in the form of route enhancements and parking provision, this assertion is unsupported.

10. Mitigations for transportation impacts should include plans for temporary and permanent reconfiguration of specific streets to facilitate and enhance bicycle circulation. *Mitigation Measure M-TR-1a: Traffic Monitoring and Management Program* should identify streets and street segments for private vehicle access restrictions (while permitting bicycle, local vehicle, transit, delivery access). Effects of such access restrictions should be studied before, during, and after each event and adjusted for optimum mitigation and access benefits. The following streets should be included in the program of restricted access routes: **05** [TR-8c]

- Polk Street, Market Street to Aquatic Park
- Market Street, Van Ness to Embarcadero
- Embarcadero, Pier 40 to Jefferson Street
- Jefferson Street, Embarcadero to Van Ness
- Washington Street, Kearny Street to Embarcadero
- Townsend Street, 8th Street to Embarcadero
- Columbus Avenue, Montgomery Street to Beach Street
- Baker Street, Greenwich to Marina Blvd
- Scott Street, Greenwich to Marina Blvd
- Fillmore Street, Greenwich to Marina Blvd
- Powell Street, Columbus to Jefferson
- Crissy Field Avenue, Lincoln Blvd to Old Mason Street (Presidio)

11. Other bicycle circulation improvements – in general, we recommend prioritizing programs and projects that advance the Bay Trail as a continuous comfortable bikeway for all ages and abilities, as a necessity of AC34 event days and a legacy for the ongoing benefit of the city. The San Francisco Bay Trail provides a compelling imperative and alignment for organizing reference and many Bay Trail-aligned projects are ready to be implemented, completed, or brought forward as trials. **06** [TR-9a]

- Market Street - Embarcadero junction through Justin Herman Plaza – rationalize status of

bicycle path of travel from foot of Market Street to Harry Bridges Plaza and Ferry Building. the Market St-Ferry Building axis runs through Justin Herman Plaza, which is ambiguously configured as "shared space" but obscurely defined as "sidewalk", bicycle riders are sometimes cited by SFPD for riding in this essential junction of two bikeways.

- Marina Bay Trail parking and hazard removal, Yacht Road to Scott Street – Given that millions of people will be using this segment of the Bay Trail during the America's Cup, it is important that the 28 under-utilized parking spaces separating the Bay Trail from the Bay between Scott and Baker Streets be allocated to public access vs. private parking before and during race events. The Bay Trail alongside the seawall, adjacent to the parking lot between Scott and Webster should be significantly widened. Re-configuring the parking in this lot would allow for a widened pathway without an overall loss of parking spaces.
- Bayside pathway south of Pier 40 (South Beach Marina) – confirm/rationalize multiuse status, add wayfinding for bike traffic to guide from Pier 40 to Third Street along bay edge, construct curb ramp for bike & wheelchair access at Third Street for smooth bikeway junction between China Basin walkway path and Third St roadway at Lefty O'Doul Bridge.
- Lefty O'Doul Bridge - close easternmost lane of and convert to 2-way cycletrack to close gap in Bay Trail / Blue Greenway

06 [TR-9a] cont.

On these points the SF Bicycle Coalition respectfully finds the Draft EIR for 34th America's Cup and James R. Herman Cruise Terminal and Northeast Wharf Plaza to be inadequate and deficient, and we ask that the DEIR account for these points in a fair estimation of the true impacts of the project.

Sincerely,

Andy Thornley
Policy Director
San Francisco Bicycle Coalition

COM-252

SAN FRANCISCO Bay Trail

August 25, 2011

Bill Wycko
Environmental Review Officer
San Francisco Planning Department
1650 Mission Street, Suite 400
San Francisco, CA 94103

Subject: 34th America's Cup and James R. Herman Cruise Terminal and Northeast Wharf Plaza

Dear Mr. Wycko:

The Bay Trail Project is a nonprofit organization administered by the Association of Bay Area Governments (ABAG) that plans, promotes and advocates for the implementation of a continuous 500-mile bicycling and hiking path around San Francisco Bay. When complete, the trail will pass through 47 cities, all nine Bay Area counties, and cross seven toll bridges. To date, slightly more than half the length of the Bay Trail alignment has been developed.

AC34 will provide a unique opportunity to showcase the San Francisco waterfront, the City, and the Bay Trail. With the expected influx of up to 5,000,000 visitors, the America's Cup Project properly envisions a robust non-motorized transportation plan as well as "transit first" approach. However, it is difficult to determine if this vision will be realized as the DEIR points to the "Draft People Plan" for the bulk of the bicycle, pedestrian, and transit improvements. This Plan will not be complete until the end of September. Regardless of this somewhat confusing approach, the Americas Cup Project should commit to closing several important gaps in the Bay Trail along the San Francisco and Marin shorelines.

As an overall comment, please note that the Bay Trail is a proposed 500-mile recreational pathway (vs. 400 miles), and that 310 miles are now complete. Please also note that the Bay Trail serves an important function as an alternative commute corridor, and serves as the backbone for MTC's Regional Bike Plan.

01 [TR-1e, TR-9a]

Cruise Terminal Impacts

The entrance to the new cruise terminal will introduce a significantly increased volume of vehicles cutting across one of the most intensely used segments of Bay Trail in the entire 9-county system. In the FEIR, please propose specific mitigation measures to address this hazard for cyclists and pedestrians.

02 [TR-13]

Administered by the Association of Bay Area Governments
P.O. Box 2050 • Oakland, CA 94604-2050
Phone: 510 464 7900 • Fax: 510 464 7970
Web: www.baytrail.org

Bay Trail Public Access Improvements

In preparation for an influx of waterfront visitors, the following public access infrastructure improvements should be implemented prior to the event. The Bay Trail Project recognizes the narrow planning, design and construction window associated with AC34 and has noted the year by which each improvement is reasonable. The projects are listed in order of importance to the Bay Trail Project:

1. Jefferson Street Redesign (2013)
2. Vista Point Road Bay Trail (Marin—2013)
3. Marina Green Bay Trail Parking Removal (2012)
4. Long Avenue Bay Trail (2013)
5. Marine Drive Bay Trail (2013)
6. Van Ness Aquatic Park to Ft. Mason Path Bay Trail Gap (2013)
7. Lefty O'Doul Bridge (2012)
8. Signage, Maps, Guides (2012)

1. Jefferson Street Redesign

The City Planning Department in coordination with the Port, MTA and SFDPW is in the process of redesigning Jefferson Street between Taylor and Hyde. This is an important gap in the Bay Trail, and the only remaining major gap on the northern waterfront. In order to accommodate the massive numbers of cyclists and pedestrians that will be using the Bay Trail over the extended duration of race activities, we were pleased to see this project specifically called out in the People Plan and disappointed to not see it included in the DEIR. The project will significantly increase the space allowed for bicycle and pedestrians in the heart of Fisherman's Wharf. Bikes and pedestrians already flow into the street on a regular basis due to a lack of appropriate facilities. This problem will be greatly exacerbated with the addition of millions more visitors to the City during the America's Cup races, and thus it is important that this project be fully implemented prior to race festivities. 03 [TR-9a]

2. Vista Point Road Bay Trail—Golden Gate Bridge to Fort Baker

Vista Point road is a gravel roadway winding down from the Vista Point parking lot on the east side of the Golden Gate Bridge to Fort Baker. It does not currently provide through bicycle or pedestrian access for security reasons, and it is closed to vehicles. The Vista Point Bay Trail is part of GGNRA's overall plans for trails in the area. Opening this route to tourists in particular will dramatically reduce the intense use of Alexander Avenue as the primary route to Sausalito from the Golden Gate Bridge. Alexander Ave has no shoulders and no pedestrian facilities. Families with small children and inexperienced cyclists are forced to contend with several uncontrolled freeway on and offramps, and must make extremely dangerous maneuvers in order to access the Bridge or Sausalito. The addition of 5 million new visitors in the summers of 2012 and 2013 will make this already dangerous situation completely unacceptable. The addition of paving, railings, fencing and signage will make Vista Point road the clearly superior alternative for bikes and pedestrians in the Sausalito, Fort Baker, Golden Gate Bridge vicinity.

O-SFBT

3. Marina Green Bay Trail

As millions of people will be using this segment of the Bay Trail during the America's Cup, it is important that the 28 under-utilized parking spaces separating the Bay Trail from the Bay between Scott and Baker Streets be allocated to public access vs. private parking before and during race events. The Bay Trail alongside the seawall, adjacent to the parking lot between Scott and Webster should be significantly widened. Re-configuring the parking in this lot would allow for a widened pathway without an overall loss of parking spaces.

4. Long Avenue Bay Trail

Long Avenue connects the new multi-use path on Lincoln Avenue to the Warming Hut at Crissy Field, and to Marine Drive out to Fort Point. Race organizers should coordinate with the GGNRA and Golden Gate National Parks Conservancy regarding plans for a bicycle and pedestrian facility on this narrow roadway where no facilities currently exist. 03 [TR-9a] cont.

5. Marine Drive Bay Trail

Marine Drive begins at the bottom of Long Avenue and provides access to Fort Point. Marine Drive's bicycle and pedestrian accommodations are currently haphazard and undefined. Delineation of vehicle vs. bike/ped space would be relatively easy to accomplish. Please work with the GGNRA and the Golden Gate Parks Conservancy to improve public access to Fort Point and general circulation in this area.

6. Van Ness: Aquatic Park to Ft. Mason Path Bay Trail Gap

An approximately 470-foot gap in the multi-use Bay Trail exists in this location. As thousands of additional hourly users will be introduced via the AC34 events, this short but important gap should be addressed as part of the project.

7. Lefty O'Doul Bridge

The historic Lefty O'Doul Bridge represents a small but important gap at the gateway to the Blue Greenway and the southern waterfront. Closing the easternmost lane as is done on game days and designating the space as multi-use path is a simple and inexpensive way to close this long-standing gap in the Bay Trail.

8. Signage, Maps, Guides, Public Information

The draft People Plan appropriately references the importance of signage with the influx of visitors associated with the America's Cup. The Bay Trail Project would like to be involved in the preparation of signage plans as the entirety of the route is located on the Bay Trail. The Bay Trail project has an inventory of signs that are provided free of charge to local jurisdictions, though incorporation of our digital logo into a larger scheme may be more appropriate. Similarly, we request inclusion of the Bay Trail in any maps and guides created for the event. 04 [TR-9a]

O-SFBT

RECEIVED
AUG 2 3 2011
CITY & COUNTY OF S.F.
PLANNING DEPARTMENT
M E A

Parks Event Operations & Implementation Plan

As the entirety of the AC34 event will be located on the San Francisco Bay Trail, please include Bay Trail Project staff in both event operations and the continued progression of the People Plan. 05 [TR-9a]

Road Closures

The Bay Trail Project supports the proposed closure of northbound Embarcadero to vehicle traffic. Please also include the closure of Marine Drive from Long Avenue to Fort Point to vehicles on most weekends during the racing event, and certainly during peak event times, as requested in our NOP comment letter. Please also consider closing northbound Marina Boulevard and Jefferson Street during race events. 06 [TR-3e]

Views

Views of the Bay from the Bay Trail are of paramount importance. Any use of the shoreline—including marina uses both temporary and long term—that have the potential to block views should be fully disclosed and analyzed in the FEIR. 07 [AE-4]

If you have any questions about the San Francisco Bay Trail and the proposed projects listed above, please do not hesitate to contact me at (510) 464-7909 or by e-mail at maureeng@abag.ca.gov.

Sincerely,

Maureen Gaffney
Bay Trail Planner

cc: Ming Yueng, Bay Conservation and Development Commission
Kate Bickert, Golden Gate National Parks Conservancy
Ann Buell, Coastal Conservancy
Peter Albert, SFMTA
Andy Thornley, San Francisco Bicycle Coalition
Andy Peri, Marin County Bicycle Coalition

O-STB

1330 Broadway, Suite 1800
Oakland, CA 94612-2016

t. 510.463.6850

save-tbay.org

August 22, 2011

Bill Wycko, Environmental Review Officer
San Francisco Planning Department
1650 Mission Street, Suite 400
San Francisco, CA 94103

Re: Comments to Draft Environmental Impact Report - The 34th America's Cup Races and James R. Herman Cruise Terminal and Northeast Wharf Plaza (SF Planning Case No. 2010.0493E)

Dear Mr. Wycko:

Thank you for the opportunity to comment on the Draft Environmental Impact Report (EIR) for the 34th America's Cup Races and James R. Herman Cruise Terminal and Northeast Wharf Plaza.

Save The Bay is the largest regional organization working to protect and restore San Francisco Bay. Save The Bay is celebrating 50 years as the Bay's leading champion, protecting our natural treasure from pollution and inappropriate shoreline development; restoring habitat; and securing strong policies to re-establish 100,000 acres of wetlands that are essential for a healthy Bay.

The world's premier sailing race presents a special opportunity to showcase San Francisco Bay to the world, and to create lasting improvements for the Bay, San Francisco's waterfront, and the region's economy. The America's Cup in San Francisco should also support substantial and ongoing improvements to the health of San Francisco Bay, the West Coast's largest estuary. Those outcomes require a legally adequate Final EIR that is responsive to corrections and improvements recommended in comments on this Draft. The Final EIR should equip the public and regulatory agencies to identify the best possible project alternative that can be accomplished in the required time with the least adverse impacts. 01 [INT-1]

Impacts

The Draft EIR fails to adequately analyze impacts to proposed facilities and associated infrastructure over the long term from sea-level rise. The California Climate Adaptation Strategy and subsequent guidance from the State of California indicate appropriate planning assumptions for sea-level rise, and fully analyzing these impacts is required under CEQA. 02 [HY-11]

> The Final EIR should apply the range of projections for sea level rise recommended by the State of California, and should indicate where flooding risks would be present for the proposed structures, associated sewer and stormwater infrastructure, associated public access, and related features.

SAVE THE BAY

The Draft EIR fails to adequately analyze alternatives to dredging that could minimize adverse impacts to San Francisco Bay water quality, fish and wildlife. The proposed dreding will result in significant impacts through increased turbidity and resuspension of contaminated sediments. The dredging operations proposed for areas to be used as temporary berthing areas for visiting yachts, and for America's Cup racing boats, appear to be more extensive than the minimum necessary for safe navigation. 03 [AL-1]

The Final EIR should analyze alternatives that make use of areas where existing depth is sufficient to obviate the need for some or all of the dredging proposed.

The Draft EIR fails to adequately describe impacts to water quality in San Francisco Bay from stormwater runoff (Section 5.16). The San Francisco Bay Regional Water Quality Control Board has already indicated in its response to the Application for 401 Water Qulity Certification that insufficient information has been presented to determine whether stormwater impacts after construction of the Cruise Shop Terminal and America's Cup facilities will be minimized to the maximum extent practicable. 04 [HY-10a]

The Final EIR should describe specific measures that will be taken to avoid, minimize, or adequately mitigate these impacts. Examples of this information include, but should not be limited to:

- use of new and retrofitted impervious surfaces
- best management practices and green infrastructure techniques
- capture and treatment methods, consistent with the San Francisco Stormwater Design Guidelines.

Long-term development plans

The DEIR provides inadequate information on long-term development plans for the public to evaluate impacts and alternatives around several areas of the San Francisco waterfront. As we noted in our comments on the Notice of Preparation, the EIR could be legally vulnerable if the lead agency does not clearly explain how limiting analysis to the AC34 race events and associated race-related waterfront improvements would fully comply with CEQA's requirements to analyze short and long-term impacts of a project, address cumulative impacts of current and future projects, and avoid piece-mealing a larger project into sequential analyses. 05 [IO-5]

The Draft EIR fails to provide this explanation, and fails to achieve it's stated goal to "conceptually analyze long-term development possibilities addressed in the Host Agreement taking into consideration the Port Waterfront Land Use Plan (WLUP), the San Francisco Planning Code and Zoning Map, and other considerations" (Sections 3.4.8, 5.1.4, 5.4.3.4). The Draft EIR's failure to further characterize uses or site-specific construction details makes the conceptual analysis inadequate for evaluation of impacts, or consistency with existing laws and regulations. As an example, the discussion of proposed marinas in open water basins (p. 3-92) assumes placement of fill and structures in San Francisco Bay, without even mentioning the proscriptions against such fill in the Waterfront Special Area Plan.

Because the Draft EIR's conceptual analysis of long-term development does not adequately identify significant impacts that can be minimized or reduced, nor does it characterize unavoidable significant impacts, making discussion of mitigation impossible.

The Final EIR should articulate and analyze all impacts of proposed future land uses on affected piers and waterfront property, including any land uses contemplated after completion of AC34, or else this CEQA analysis may be seen as piece-mealing a larger project. A preferable alternative may be to assume no long-term development beyond that required for completion of the cruise ship terminal, notwithstanding the Host Agreement for America's Cup, and clarify that no-such long-term uses are contemplated as part of this CEQA analysis, nor would they be approvable with reliance on this EIR. 05 [IO-5] cont.

The Draft EIR does not adequately address how the project as proposed would achieve public access, fill removal, and open water creation requirements of the Waterfront Special Area Plan (SAP) that Save The Bay and other constituency groups helped to negotiate with the Port of San Francisco and the San Francisco Bay Conservation and Development Commission more than a decade ago. Many significant SAP requirements have not yet been achieved, and portions of the America's Cup and Cruise Ship Terminal proposal would preclude achievement of SAP requirements and even reduce existing public access and open water assets. The proposed use of the open water basin between piers 14 and 22½ is one of the most troubling examples. 06 [PP-1]

The Final EIR should articulate clearly how any changes to the SAP necessitated by the project will contribute to the following outcomes:

- Provide an amount of effective and usable public access to the Bay and its shoreline as great or greater than currently required by the SAP, as soon as or sooner than currently required by the SAP, whether in locations currently required by the SAP or alternative locations

- Remove an amount of fill to create open water in the Bay as great or greater than currently required by the SAP, as soon as or sooner than currently required by the SAP, whether in locations currently required by the SAP or alternative locations.

Chapter 7 - Alternatives

In developing and analyzing a reasonable range of alternatives to the project proposal (Table 7.2), the Draft EIR fails to examine several opportunities which could accomplish some of the project's goals with fewer significant environmental impacts that cannot be mitigated, and which could provide greater lasting benefits to San Francisco Bay, its shoreline, and the resident and visiting public. 07 [AL-1, AL-3]

The Final EIR should analyze the following opportunities to "Provide public viewing opportunities of the America's Cup and the America's Cup World Series live racing events at close range from various locations on the waterfront around Central San Francisco Bay to increase the general public's access to the event

and expand the appeal of the sport of sailing to the general public" and achieve other priority project goals while advancing implementation of the Waterfront Special Area Plan objectives:

- Develop a primary America's Cup race viewing area behind the Ferry Building, rather than at the end of Pier 27/29, and remove all or most of the underutilized and aging structure currently occupied by the World Trade Center. This location may be preferable for short term and long-term improved public open space because it is more accessible to BART and other transit centered near the foot of Market Street, is more sheltered from wind, and is already more heavily visited by commuters, residents and tourists than far end of Pier 27/29.

- Provide race-viewing and develop a permanent, premier open space plaza at Fisherman's Wharf, by removing parking from the Triangle Lot area and improving public access and services at the most visited location on the waterfront. Reconnecting people to the Bay and removing the greatest impediment to that connection at this iconic San Francisco location would be a significant and lasting public benefit from the proposed project.

- Accelerate completion of a Northeast Wharf Plaza at Pier 27 to open concurrently with the cruise ship terminal shell building, rather than deferring the plaza's design, construction and operation to an indefinite future date. Design the new cruise ship terminal shell to include a publicly accessible rooftop or elevated observation deck to provide a panoramic outlook that can be a draw and a destination for a portion of the waterfront that lacks similar opportunities.

- Limit improvements on piers 30-32 to temporary facilities that safely accommodate the AC34 race event requirements, and proceed with removal of most of those piers after completion of the events rather than investing significant resources in seismic upgrades there. Removal of this deteriorating structure represents one of the best opportunities for reduction of fill and expansion of open bay water mandated by the SAP.

07 [AL-1, AL-3] cont.

Thank you again for your consideration of these comments.

Sincerely,

David Lewis
Executive Director

COM-256

PO Box 370 • Forest Knolls, CA 94933 P: 415.663.8590 • F: 415.663.9534
www.SeaTurtles.org • www.tirn.net • www.SpawnUSA.org • www.GotMercury.org

August 17, 2011

Mr. Bill Wycko, Environmental Review Officer
San Francisco Planning Department
1650 Mission St., Suite 400
San Francisco, CA 94103 - 2479

Re: Public Comments on 34th America's Cup (AC34) and James R. Herman Cruise Terminal and Northeast Wharf Plaza - Draft Environmental Impact Report
San Francisco Planning Department Case No. 2010.0493E
State Clearinghouse No. 2011022040

Dear Mr. Wycko and City of San Francisco Planning Department,

Turtle Island Restoration Network (TIRN) appreciates the opportunity to comment on the Draft Environmental Impact Report (DEIR) for the 34th America's Cup (AC34) and James R. Herman Cruise Terminal and Northeast Wharf Plaza.

TIRN urges adoption of the most environmentally superior alternatives for the America's Cup and James R. Herman Cruise Terminal and Northeast Wharf Plaza projects, which the DEIR identifies as:

1. The Reduced Intensity AC34 and Long-Term Development Alternative, which would provide the greatest reduction in significant impacts compared to the proposed project and would therefore, be considered the environmentally superior alternative for the AC34 project.
2. For the Cruise Terminal project, the environmentally superior alternative was determined to be the Renovation of Pier 27 Shed Alternative.

01 [AL-5]

However, TIRN remains concerned that the Draft Environmental Impact Report (DEIR) compiled by the City of San Francisco Planning Department for 34th America's Cup (AC34) and James R. Herman Cruise Terminal and Northeast Wharf Plaza projects is inadequate to meet the California Environmental Quality Act (CEQA) for numerous reasons including:

1. The DEIR attempts to review and mitigate the environmental impacts from a three very dissimilar projects: a short-term sailing event, short-and-medium term waterfront development including a new cruise terminal; and long-term commercial and residential development. — 02 [INT-1]
2. The DEIR does not clearly specify whether it serves as a program or a project document. — 03 [IO-5]
3. The DEIR does not assess an alternative that describes the America's Cup as long-term impact if the sailing event continues to be held in San Francisco Bay after 2013. — 04 [AL-4]
4. The DEIR is inadequate in describing, assessing and mitigating the environmental impacts of the proposed projects and programs. — 05 [IO-1a]

5. The DEIR relies on various plans that are under development and incomplete for mitigations for project impacts, which is inadequate to meet CEQA requirements. **06** [IO-4c]
6. The DEIR fails to identify or require mitigations that are available to prevent, reduce and minimize air quality impacts, particularly from marine vessels of all types. (Details below under Air Quality 5.8.) **07** [AQ-5]
7. The DEIR also fails to provide a complete analysis of the incremental air emissions that will be generated by the temporary shutdown of the shoreside power installation for cruise ships at Pier 27. (Details below.) **08** [AQ-2]
8. The DEIR fails to consider alternatives for keeping shoreside power for cruise ships operational at Pier 27, such as moving the America's Cup Village to another pier or moving the shoreside power to another pier. (Details on this subject below.) **09** [AQ-5]
9. The DEIR also fails to properly describe the regulatory framework for marine vessels in the air quality and the water quality sections. **10** [HY-2]
10. The DEIR fails or to assess the baseline emissions from the cruise ship terminal project; or the impacts from the larger cruise ship that are expected to begin calling on the Port of San Francisco during the project period. (These inadequacies are described in more detail below by section.) **11** [AQ-4]
11. The DEIR fails to analyze the potential impacts to endangered leatherback sea turtles that utilize waters immediately outside the Golden Gate from increased vessel traffic entering the Bay for the America's Cup and new cruise ship terminal. **12** [BIM-3c]

TIRN is an international non-profit environmental organization with offices in Marin County, California; Houston, Texas, and San Jose, Costa Rica. TIRN is the parent organization of Sea Turtle Restoration Project (STRP), Salmon Protection and Watershed Network (SPAWN) and GotMercury.org. STRP was founded in 1989 and is the largest project of TIRN, a 501c3 organization, which was incorporated in 1997. The three projects focus on sea turtle, ocean and biodiversity conservation; protection of endangered coho salmon in the Lagunitas watershed of Marin County, California; and reducing human consumption of toxic mercury in seafood, respectively. TIRN's mission is to take swift and decisive action to protect and restore marine species and their habitats and to inspire people in communities all over the world to join us as active and vocal marine species advocates.

TIRN is also a member of the America's Cup Environmental Council and supports the range of comments provided by the more than 30 member organizations in the Council comments. TIRN has signed onto the larger coalition comments and provided input to those comments. Any comments provided by TIRN here that duplicate the comments from the Council may be addressed in the response and comments to the Council. **13** [GEN-1]

These TIRN comments were drafted by Program Director Teri Shore[1], an environmental advocate with expertise in air quality, marine vessel emissions, marine species conservation and relevant laws and regulations.

[1] Expert opinion: Teri Shore is an environmental advocate with expertise in air quality, marine vessel emissions, marine species conservation and relevant laws and regulations. Shore gained expertise on marine emissions while lobbying for new regulations to require cleaner fuels and engines on ferries and other commercial harborcraft, cruise ships and cargo vessels at the local, state and international level. In San Francisco, Shore served on the Port of San Francisco Cruise Ship Terminal Environmental Advisory Committee that developed standards to protect the Bay Area's air and water quality from cruise ships, which culminated in the shorepower installation at Pier 27 in advance of state regulation. Shore also worked at the local and state level to help win strong new state standards for marine fuels and engines on the Bay. She was also a negotiator at the International Maritime Organization for stronger global marine fuel and engine standards that are now being implemented along the West coast of the U.S.

TEMPORARY SHUTDOWN OF SHORESIDE POWER FOR CRUISE SHIPS AT PIER 27

On August 9, 2011, Turtle Island Restoration Network, Natural Resources Defense Council and several San Francisco Bay Area public health and conservation organizations wrote to the City of San Francisco and the Port of San Francisco raising concerns about the temporary shutdown of the publicly funded shoreside power installation for cruise ships at Pier 27 for two to three years, or possibly longer, due to proposed America's Cup activities and plans for a new cruise terminal. See letter attached.

The Port of San Francisco demonstrated environmental leadership when it committed to constructing the $5 million shoreside power installation to reduce the significant air emissions generated by cruise ships while in port in advance of California state air quality regulations for shoreside power that enter into force beginning in 2014. The Port of San Francisco became the first California port, and one of only a handful of ports in the world, to provide shoreside electrical power for cruise ships while at berth. Without shoreside power, the massive vessels burn highly polluting marine diesel fuel while docked to support the electrical generation needs of the thousands of cruise ship passengers and ongoing amenities.

Now with less than a year in operation, this important and widely supported air quality project will be temporarily shut down in 2012, 2013 and possibly in 2014 and beyond without any plans to mitigate the criteria air pollutants that will be released.[2] The U.S. EPA estimates the level of air emissions reductions from the project at up to 97 tons per year.[3] **14** [AQ-2]

The loss of shoreside power will create a significant air quality impacts in the city and Bay Area that must be prevented or mitigated during the period that it is shutdown. Air pollution is documented to have a direct connection to asthma, lung cancer, bronchitis, heart disease and diabetes, with greater impacts on low income communities already suffering from multiple sources of pollution.

It will be difficult, if not impossible, for the port and the city of San Francisco to make up the air emissions benefits from the shoreside power installation if it is shutdown during the period of the America's Cup and the construction of the new cruise terminal because: 1) Human exposure to air pollution occurs in real time so an individual's exposure now cannot be remedied by less exposure later, 2) state laws will require 50 percent of cruise ships to hook up to shoreside power in the beginning of 2014, so the port would need to go beyond that level to achieve emissions reductions "beyond" regulations, 3) only a finite number of cruise ships are equipped to hook up to shoreside power and the number of ship calls to the port is not expected to change in the future.

TIRN and the organizations in the letter offered the following possible mitigations for remedying the shoreside power situation: **15** [AQ-5]

1. Do not shut down shoreside power for cruise ships at Pier 27. Instead reconfigure the proposed site plans for the America's Cup and build the new cruise terminal without a shutdown; or with minimal downtime to allow for upgrading of the cruise terminal and electrical power levels.
2. Relocate shoreside power to Pier 35 or another suitable pier temporarily to allow cruise ships to continue to employ shoreside power and hook up to city electrical power.

More recently, Shore has advocated for establishing critical habitat for endangered leatherback sea turtles along the West Coast of the U.S. and preventing large new commercial fisheries that accidentally capture endangered marine life from expanding along California's coast.

[2] See Draft EIR for America's Cup and Cruise Terminal at 5-8.8.
[3] U.S. EPA estimate of shoreside power emissions reductions from cruise ships in Year Two and beyond, email communication, 7/22/2011, attached.

In the event that it is truly infeasible for the existing or a new shoreside power facility to remain in use during the America's Cup event and/or construction of the new cruise terminal on Pier 27, the reasons why and how the city came to such a conclusion should be explained in detail in the final EIR. 15 [AQ-5] cont.

If the city and the port fail to relocate the cruise ship shoreside power or allow the existing shoreside power to continue uninterrupted operation, then adequate mitigations must be implemented. TIRN recommends some combination of the following potential mitigations to make up for all emission reductions resulting from interruptions in the current shoreside power operations:

1. Require cruise ships to take alternative measures to reduce air emissions in port such as a) using on-road diesel fuel, or b) using lower-sulfur marine distillate fuel in advance of state and federal regulation; or c) requiring cruise ships to burn 20 to 100 percent biodiesel sourced from environmental sound feedstock in engines while in port; or d) require cruise ships to hook up to shoreside generators operated on clean burning fuels such as natural gas.
2. Construct and put into service a new clean, near-zero emissions water taxi along the waterfront beginning in 2012 that operates primarily on wind, solar and clean fuels to mitigate the air emissions increases. 16 [AQ-5]
3. Retrofit existing marine vessels on the Bay to meet California's harborcraft regulations to reduce emissions ahead of schedule.
4. Retrofit or provide shoreside power to cargo ships calling on the Port of SF in advance of new state standards for shipping fuel and shoreside power.
5. Implement other air quality projects in San Francisco that would benefit low income residents as well as visitors and port neighbors.
6. Implement air quality projects in neighboring communities that suffer disproportionately from air emissions impacts, such as West Oakland.

The final EIR should analyze these alternatives by assessing the potential emissions benefits and comparing them to the shoreside power project air emissions benefits. The EIR should then select the best alternatives and implement required mitigations for air quality impacts from the America's Cup, cruise terminal and associate waterfront projects and during the project period (2012-2014).

Detailed comments follow:

Section 5.8 Air Quality
5.8.3.2 Approach to Analysis
Analytical Approach for Operational Emissions - AC34 Project
The analysis also accounted for incremental cruise ship hoteling emissions at Pier 27 resulting from the removal of the shore-side power system installed at Pier 27 in 2010. Details are provided in Appendix AQ.
TIRN COMMENTS: The analysis of incremental cruise ship hoteling emissions at Pier 27 during 2013 as detailed in Appendix AQ appears to underestimate the total emissions reductions losses fails to account for these emissions and detail necessary mitigations for increased emissions. The emissions data a needs to be re-evaluated and compared to and aligned with estimates by air quality regulators that provided grant funding for the project in order to ensure accuracy and meet CEQA requirements. The discrepancies must be explained in the EIR. 17 [AQ-2]
The DEIR estimated the total emissions benefits lost due to the shutdown of shoreside power at 22 tons per year.
The U.S. Environmental Protection Agency estimated the total incremental emissions reductions that would be achieved by the shoreside power installation as 97 tons of criteria air pollutants (mostly nitrogen oxides) beginning in Year 2 (2012), compared to the DEIR estimate of 22 tons of criteria air

COM-258

pollutants per year. The Bay Area Air Quality Management District estimated the emissions reductions from the project at 30 tons per year. See EPA and BAAQMD estimates attached.
It also appears that the DEIR fails to account for the loss of shoreside power emissions reductions as a result of cruise ship terminal construction and preparation for the America's Cup Village at Pier 27 during 2012. TIRN could not find these emissions accounted for anywhere in the DEIR. 17 [AQ-2] cont.

5.8 Analytical Approach for Operational Emissions – Cruise Terminal Project
Cruise Terminal project operational emissions were estimated based on projected ship call data provided by the Port of San Francisco. Shore power is assumed to be unavailable in 2012 and 2013 due to construction and AC34-related activities at Pier 27.
TIRN COMMENT: The projected cruise ship calls are described in the project description as varying from 40 to 80 calls per year, but it is not clear in the DEIR which number of calls was utilized to estimate the air emissions impacts from the project. This needs to be clearly described in the DEIR. Also, if the shorepower may is unavailable in 2014 or beyond due to cruise terminal construction or other unexpected reasons, then these additional impacts must be quantified and analyzed to meet CEQA requirements. 18 [AQ-2]

5.8.3.3 AC34 Event and Cruise Terminal Impacts and Mitigation Measures

Operational Impacts
Impact AQ - 4: Operations of the America's Cup facilities would violate an air quality standard or contribute substantially to an existing or projected air quality violation. (Significant and Unavoidable with Mitigation)
Table 5.8 - 7 AC34 AVERAGE DAILY AND MAXIMUM ANNUAL OPERATIONAL EMISSIONS
TIRN COMMENT: The analysis of incremental cruise ship hoteling emissions at Pier 27 during race operations in 2013 as detailed in Appendix AQ appears to underestimate the total emissions reductions losses and needs to be re-evaluated in order to ensure accuracy and meet CEQA requirements. See Comment under 5.8.3.2 Approach to Analysis. 19 [AQ-2]

5.8 Impact Summary (Page 5.8 – 34)
Mitigation Measure M-AQ-4 (Emission Controls for Race-Sponsored Spectator Vessels) would reduce emissions of ROG, NOx, PM10, and PM2.5 from those presented in Table 5.8-7. However, this measure would only apply to commercial, race-sponsored vessels that would be under the contract authority of the Event Authority and could not be implemented on private vessels. Race sponsored spectator vessels would be regulated at the state and federal levels, rendering implementation of mitigation measures for emissions reductions from these vessels infeasible.
TIRN COMMENTS: 20 [AQ-5]

1. TIRN disagrees that air quality mitigations for marine vessels could be implemented only on commercial, race-sponsored vessels. The Port of San Francisco and the City of San Francisco have the authority to establish "conditions of port entry" through Memorandums of Understanding, berthing agreements, lease agreements, mooring and anchoring agreements with vessel owners and operators, including private yachts that may want to dock or anchor in city waters. One example is the Port of SF's berthing agreements with cruise ships not to discharge in the Bay (cited in the DEIR). The Ports of Los Angeles and Long Beach have imposed conditions on U.S. and foreign-flagged ships such as reducing vessel speeds.[4]

[4] International Association of Ports and Harbors Toolbox for Port Clean Air Programs, A Reference Guide, http://iaphtoolbox.wpci.nl/index.html, Ports of Los Angeles and Long Beach Vessel Speed Reduction, http://iaphtoolbox.wpci.nl/vsp_project.html

2. While TIRN agrees that state, national and international regulations govern fuels and engines on commercial marine vessels, TIRN points to Comment 1 above, that the city and the port can establish conditions for race sponsored vessels to meet and go beyond regulations to use cleaner fuels and engines and hook up to shoreside power to prevent and reduce air pollution from marine diesel engines during the America's Cup Race. Therefore the DEIR is inaccurate when it states that "implementation of mitigation measures for emissions reductions from these vessels [is] infeasible."
3. The America's Cup must not rely on underfunded and unreliable state and federal enforcement of vessel emissions. Any and all state and federal agents will be struggling to deal with the estimated 1.6 million spectators and will focus on boating safety and enforcement of safety laws, not emissions standards. America's Cup can mitigate for spectator vessel emissions by funding additional enforcement officers and equipment to evaluate and remedy emissions from other vessels.

20 [AQ-5] cont.

The following potential mitigations for race-sponsored vessels and spectator vessels, private and commercial, superyachts including harborcraft such as ferries (described as marine vessels below) must be considered and analyzed in the DEIR:

1. Require marine vessels to hook up to shoreside electrical power when docked.
2. Require marine vessels to shut down diesel engines when anchored out on the Bay.
3. Require commercial harborcraft used by race management and spectator vessels (including media and VIP craft) along with barges to meet California state regulations for marine engines or employ alternative technologies in advance of regulation.[5]
4. Require the America's Cup Event Authority to utilize clean, non-diesel low-or-zero emissions vessels in its race management and spectator fleets, such as have recently been proposed for San Francisco Bay.[6] Read more in comments on Transportation and Circulation.
5. Require use of biodiesel 20 to 100 percent from environmentally sound feedstocks to reduce particulate matter and greenhouse gas emissions.

21 [AQ-5]

5.8 Mitigation Measure M-AQ-4: Emission Controls for Race-Sponsored Spectator Vessels
The project sponsor shall require all contracts for race-sponsored spectator vessels to meet U.S. EPA Tier 3 or better engine standards for marine diesel engines, as feasible. *Tier 3 and Tier 4 engines would reduce ROG and NOx emissions by approximately 42 percent over Tier 1 engines and PM emissions by 78 percent over Tier 1 engine emissions. Should it be determined by the project sponsor that availability of vessels with Tier 3 or Tier 4 engines for use as race-sponsored spectator vessels renders this mitigation measure infeasible, this lack of availability must be demonstrated, to the satisfaction of the Environmental Review Officer, indicating that the project sponsor has complied with this mitigation measure to the extent feasible and why full compliance with the mitigation measure is infeasible.*

22 [AQ-5, AQ-6]

TIRN COMMENT: M-AQ-4 should require the race-sponsored spectator and all race-sponsored vessels to meet California state standards in advance or regulation. (See comment above with citation.) U.S. EPA engine regulations are not as stringent as state regulations.

[5] California Air Resources Board, Commercial Harborcraft Regulatory Activities, http://www.arb.ca.gov/ports/marinevess/harborcraft.htm
[6] Several real-world examples of such vessels include the wind-powered, winged ferry recently proposed to Golden Gate Transit by Winged+Wing Technologies of Napa **www.windwingtech.com**; and the Solar Sailor of Australia http://www.solarsailor.com/, which is operating clean vessels around the world. See articles Green Ferries are Blowing in the Wind http://www.baycrossings.com/dispnews.asp?id=2514 and Future Sailing http://boatermouth.com/kimball-livingston/3815-future-sailing-winged-ferries

COM-259

The EIR should also set additional conditions to mitigate the air emissions from marine vessels operated by guests and spectators as described in the comment above.
The EIR should eliminate the use of "as feasible" in this and all mitigations.
If utilized, the definition of "feasible" must be explained.
The EIR must define who the Environmental Review Officer is and define standards for the officer's roles, responsibilities and level of expertise.
The EIR must define a public process for any exceptions to mitigations that might be allowed.

22 [AQ-5, AQ-6] cont.

Mitigation Measure M-AQ-5: Clean Diesel Engines for Temporary Power
The project sponsor shall ensure that all diesel generators at AC34 event and viewing locations will conform to a level of performance equivalent to a Tier 4 interim, or Tier 2/ Tier 3 (as applicable, depending on power rating) engine fitted with a Level 3 Verified Diesel Emissions Control (VDEC), which would reduce diesel particulate emissions by at least 85 percent. Alternatively, natural gas or gasoline-powered generators may be used in lieu of diesel generators, thus eliminating DPM emissions from generators, as feasible. Should it be determined by the project sponsor that "tiered" diesel engine generators or natural gas or gasoline-powered generators would not provide the necessary power demands required, this lack of availability must be demonstrated to the satisfaction of the Environmental Review Officer, indicating that the project sponsor has complied with this mitigation measure to the extent feasible and why full compliance with the mitigation measure is infeasible.

23 [AQ-6]

TIRN COMMENTS:
The EIR should eliminate the use of "as feasible" in this and all mitigations. The cleanest possible generators must be required without exception.
If utilized, the definition of "feasible" must be explained.
The EIR must define who the Environmental Review Officer is and define standards for the officer's roles, responsibilities and level of expertise.
The EIR must define a public process for any exceptions to mitigations that might be allowed.

5.8 Determining Consistency with the CAP

The People Plan would also examine water- oriented transportation service, including ferry and excursion access to potential event viewing locations such as Treasure Island and Angel Island. In addition, the AC34 project would include implementation of a Sustainability Plan, which would promote sustainability activities throughout the event life cycle, including construction, staging and long-term development phases, and would consider factors such as local employment, carbon reduction and waste reduction, sustainable food policies, transport, and sourcing.

24 [IO-4c, PD-7, AQ-7]

TIRN COMMENTS: The People Plan and the Sustainability Plan must be complete and included in the EIR in order to be a valid mitigation under CEQA.
The EIR must contain evidence that these two Plans are capable of implementation and will actually be implemented or they fail to provide adequate mitigation as required in CEQA.

***5.8* James R. Herman Cruise Terminal and Northeast Wharf Plaza**
Operational Impacts
Impact AQ-14: Operation of the James R. Herman Cruise Terminal and Northeast Wharf Plaza would not violate an air quality standard or contribute substantially to an existing or projected air quality violation. (Less than Significant)

25 [AQ-2, AQ-4]

TIRN COMMENTS:

1. TIRN finds the determination of "less than significant" for cruise ship operational impacts is inaccurate and unfounded because the project baseline is not adequately described or the air quality impacts assessed.
2. The EIR must quantify and describe in detail Cruise Ship operations and air emissions associated with the existing baseline conditions and the proposed new project or it will be informationally deficient for assessing and mitigating air quality impacts.
3. The EIR must define the number of ships that hook-up to shoreside power and the number that will burn marine fuels while in port now, the change in the ratio of these ships between the existing and new project and describe and analyze the effects of new state, federal and international marine fuels and engine requirements.
4. The 2012 loss of emissions reductions from shutdown of shoresidepower must be accounted for in the EIR and attributed to either the AC events or the new cruise terminal. This accounting is absent from the DEIR.
5. The following statement in the EIR is inaccurate because there will be changes in terms of the size and type of ships, number that are hooking up to shoreside power or not, and the implementation of new marine engine, fuel and shoreside power regulations: "No changes in cruise ship operations described above are proposed as part of the project, other than the relocation of the cruise terminal from Pier 35 to Pier 27."

In addition, the proposed project would include an upgrade to the current shoreside power at Pier 27 from 12 megawatts to 20 megawatts, such that, compared to existing conditions, not only would a greater number of ships use shoreside power when in port, but also larger ships would have the ability to use shoreside power when in port. Therefore, operational air quality impacts of the Cruise Terminal project would be less than significant.

TIRN COMMENT: The EIR must assess, quantify and mitigate the air quality impacts from larger ships using larger engines, and the higher electrical loads needed in port to accommodate to needs of increased passenger loads from 2,500 to 4,000.

The EIR is inaccurate when it assumes that the emissions from larger ships will be mitigated by shoreside power.

The EIR must consider that the larger vessels may not be able to utilize future shoreside power hook-ups and what the air quality impacts will be from ships that don't hook up; as well as ship emissions from larger ships entering and exiting the Bay and mitigate them.

25 [AQ-2, AQ-4] cont.

5.8 Impact Summary

Operation of the Cruise Terminal project would result in continuation of emissions of criteria pollutants and ozone precursors associated with cruise ship operations at the existing cruise terminal.

TIRN COMMENT: The EIR must quantify and assess the emissions of criteria pollutants and ozone precursors associated with cruise ship operations at the existing cruise terminal and how these emissions will change when shoreside power is shut down in 2012, 2013 and possibly 2014 and beyond.

The EIR must compare the baseline conditions to new conditions at the proposed new project in 2014 and beyond, considering new regulations for marine fuels and engines and for shoreside power that are going into effect.

The EIR must assess the increased emission from larger cruise ships that will enter the Bay, accounting for transit emissions; and how many of those ships will hook – up to shoreside power.

TIRN COMMENT: The following finding of less than significant impact and the lack of a need for mitigation is not supported by the project facts and conditions:

Thus, the operational impact of the project would be *less than significant.*

Mitigation: Not required

COM-260

Impact AQ-15: *Operation of the James R. Herman Cruise Terminal and Northeast Wharf Plaza would not expose sensitive receptors to substantial concentrations of toxic air contaminants or respirable particulate matter (PM2.5). (Less than Significant)*

TIRN COMMENT: The DEIR incorrectly cites (and must correct) the following regulation which does not apply to cruise ships (but only to tugboats and other commercial harborcraft):

As discussed previously, the CARB implemented the Commercial Harbor Craft Regulation in January 2009 to reduce emissions of DPM and oxides of nitrogen (NOx) from diesel engines used on commercial harbor craft operated in California Regulated Waters. California Regulated Waters are all internal waters, estuarine waters, ports and coastal waters within 24 nautical miles of the California coast. The regulation includes requirements for new and in-use (existing) engines as well as monitoring, recordkeeping, and reporting requirements. These requirements will result in a gradual reduction in emissions associated with the cruise terminal and associated risk and hazards.

The appropriate state and federal regulations governing cruise ships and other marine vessels are found in part here:

Shoreside power for ships: http://www.arb.ca.gov/ports/shorepower/faq.htm#11

Marine fuels for ships: http://www.arb.ca.gov/ports/marinevess/ogv.htm

The U.S. EPA/international regulations coming into force for cleaner marine fuels along the West Coast and beyond are also relevant:

http://www.epa.gov/oms/regs/nonroad/marine/ci/420f10015.htm

26 [AQ-4]

5.8 Cumulative Air Quality Impact Summary

The proposed AC34 project would result in both construction-related and operational cumulative air quality impacts with regard to regional emissions of criteria pollutants and their precursors in an air basin designated as nonattainment for ozone and particulate matter. Emissions of ROG, NOx, PM10, and PM2.5 would all exceed significance thresholds established by the BAAQMD to identify a cumulatively considerable contribution to air quality impacts in the region. These cumulative criteria pollutant impacts would be *significant and unavoidable.*

Mitigation measures for cumulative impacts would be the same as those identified for significant unavoidable Impacts AQ-2, AQ,-4, and AQ-5. Although AC34 events would be temporary, they are identified as contributing to a significant cumulative air quality operational impact.

James R. Herman Cruise Terminal and Northeast Wharf Plaza

Impact C-AQ-2: *The proposed Cruise Terminal project, in combination with other past, present, and reasonably foreseeable future projects, would result in significant adverse cumulative impacts on air quality. (Significant and Unavoidable with Mitigation)*

TIRN COMMENTS: The finding of significant and unavoidable impacts with mitigation is not substantiated in the DEIR as it overlooks a number of mitigations for reducing and preventing air emissions from cruise ships, such as avoiding a shutdown of the shoreside power installation and other mitigations mentioned in previous comments.

The mitigation measures proposed are inadequate and do little, if anything, to mitigate air quality impacts.

The cruise terminal operations average daily and maximum annual baseline and future (2014) emissions table needs to include emissions for 2012 and 2013 in order to provide an adequate assessment and comparison of the project impacts to air quality.

27 [AQ-8]

Section 5.14: Biological Resources – Marine Resources

28 [BIM-3c]

TIRN General Comment: The DEIR fails to and must consider and assess impacts to endangered leatherback sea turtle that inhabit ocean waters immediately outside the Golden Gate, which will soon be established as critical habitat for the species under the Endangered Species Act.[7]
Leatherback sea turtles are present offshore of the San Francisco Bay during the months of June through October each year in an essential foraging zone, and are very susceptible to deadly vessel strikes and the effects of accidental ingestion of trash or marine debris. The DEIR fails to address the issue of increased vessel strikes from increased vessel traffic in the oceans surrounding the event. Additionally, the DEIR fails to calculate the impacts of increased litter into sensitive marine habitats of the San Francisco Bay and the surrounding National Marine Sanctuaries. Ingestion of trash and marine debris is documented to be common for leatherbacks sea turtles, and can have fatal consequences. Marine debris entanglement is also a lethal impact from the increased vessel use of the Bay caused by the America's Cup, and impact that affects leatherbacks and all species of marine mammals. **28** [BIM-3c] cont.

5.14.6.2 Approach to Analysis
TIRN Comment: The DEIR fails to consider but must analyze the impacts from the ships calling on the proposed new cruise ship terminal on marine resources because the project is being built specific to accommodate larger cruise ships that currently do not call on the Port of San Francisco. The project would not exist if not for the cruise ships that it will be servicing, so to exclude the impacts from the ships to marine resources, while including them in other sections such as air quality, is consistent and inadequate to meet CEQA requirements. **29** [BIM-9]

5.14 Impact BI-11: *The America's Cup facilities and events would have a substantial adverse effect, either directly or through habitat modifications, on marine or estuarine species identified as a candidate, sensitive, or special-status species in local or regional plans, policies, or regulations*
5.14 Impact BI-12: *The America's Cup facilities and events would have a substantial adverse effect on sensitive marine or estuarine natural communities identified in local or regional plans, policies, or regulations.*
5.14 Mitigation Measure M-BI-12: *Visiting Mariners Information*

TIRN COMMENTS: 1. Use of "Visiting Mariners Information" is inadequate at a mitigation to prevent substantial adverse effects on sensitive marine or estuarine natural communities as described in Impact BI-12.
2. The DEIR mitigation M-BI-12 refers to a Water and Air Traffic Plan under development. To provide mitigation for the adverse effect to marine biological resources, the plan must be complete and included in the EIR, otherwise it will be informationally deficient.
3. The EIR must contain evidence that the plan-based mitigation measures are capable of implementation and will be implemented.
4. The EIR must define how the "Visiting Mariners Information" requirements will be enforced and monitored for compliance otherwise it fails as an adequate mitigation. **30** [BIM-8a]

5.14 Impact BI-17: *The James R. Herman Cruise Terminal and Northeast Wharf Plaza would not have a substantial adverse effect, either directly or through habitat modifications, on marine or estuarine species identified as a candidate, sensitive, or special-status species in local or regional plans, policies, or regulations. LTS No mitigation necessary* **31** [BIM-9]

[7] Settlement Reached to Protect Endangered Leatherback Sea Turtles in West Coast Waters, http://www.seaturtles.org/article.php?id=2081

TIRN COMMENT: The DEIR fails to and must consider the operational impacts to marine biological resources from the cruise ships that will be utilizing the cruise ship terminal. The DEIR fails to consider but must analyze the impacts from larger cruise ships that currently do not call on the Port of San Francisco. The project would not exist if not for the cruise ships that it will be servicing, so to exclude the impacts from the ships to marine resources, while including them in other sections such as air quality, is consistent and inadequate to meet CEQA requirements. **31** [BIM-9] cont.
Potential impacts to marine biological resources from cruise ships include collisions with whales, marine mammals and endangered leatherback sea turtles inside and outside the Golden Gate; disturbance due to noise from engines and propellers; and invasive species introductions from ballast water exchanges and anchors.

Section 5.16: Hydrology and Water Quality
Regulatory Framework Cruise Ship Discharges
TIRN COMMENTS: The DEIR inadequately and inaccurately describes the current federal, state and local regulatory framework for cruise ship discharges into San Francisco Bay, state and federal waters. The EIR must be updated to reflect the most current regulatory framework including the following:
Cruise Lines International Association "best management practices": Guidelines set by this cruise industry trade organization cannot be consider regulatory in any sense; as the guidelines are completely voluntary, and CLIA has never imposed penalties on member ships or cruise lines for violating them. TIRN suggests that all mention of this trade group be eliminated from the regulatory framework or described more appropriately as a "voluntary guideline."
MARPOL Annexes IV and V: The DEIR correctly identifies MARPOL as the primary avenue for setting standards for pollution from large international vessels. However, to be accurate and adequate to meet CEQA, the DEIR needs to describe recent updates to these annexes and the status of adopted of the amendments by the U.S. government.
U.S. EPA Regulations on Cruise Ship Discharges: The DEIR cites woefully outdated regulatory information, referring primarily to a 2008 Cruise Ship Discharge Assessment Report conducted by the agency in response to a Bluewater Network (now Friends of the Earth) petition. Since then the U.S. EPA has adopted new regulations requiring NPDES permits for certain cruise ship discharges (as a result of an NGO lawsuit) as well as proposing regulations to designate California state waters as a No Discharge Zone. **32** [HY-2]

Transportation and Circulation 5. 6
In this section of the DEIR, TIRN is concerned specifically with the impacts to (and from) ferries and the cruise ship terminal.
5. 6 Impact TR-21 and Mitigation Measure M-TR-21, Impact TR-22 Mitigation Measure M-TR-22, and Impact TR-23 and Mitigation Measure M-TR-22 – Ferry service
TIRN COMMENTS: According to the CEQA analysis, publicly funded and/or subsidized ferry service provided by WETA and affiliated providers, Golden Gate Transit and Blue and Gold Ferry are not expected to be able to accommodate transportation demand at peak times during America's Cup events in 2012 and 2013. Proposed mitigations to increase ferry service to meet the demand through the People Plan are uncertain, so the impact to these services remain "significant and unavoidable." **33** [TR-7d]

TIRN finds this result unacceptable under CEQA and urges the city and port and the America's Cup Event Authority and associated entities to commit to providing clean, low or zero emissions water transportation to accommodate peak transportation demand. See recommendations on mitigations below.

In addition, the EIR must estimate the emissions from ferries compared to buses, cars and other transportation options and quantify and compare the emissions from each source by passenger and by

total one-way and round-trip. This will allow for identification of the best transportation options relative to air quality. 33 [TR-7d] cont.

5.6.1.3 Other Water Transportation
TIRN COMMENTS: TIRN also urges that the potential impact to operations of the Red & White Fleet, Adventure Cat, Oceanic Society, and other major and long-term private charter operations on San Francisco Bay be considered in the CEQA analysis of transportation and circulation since these services operate and provide transportation on the Bay, even though they are private and not regularly scheduled. 34 [TR-1d]

Other maritime constituencies related to water transportation that were not included in this section that could be impacted by America's Cup on-the-water activities is that of sailing regattas, sailing school vessel traffic, research vessels, and fishing vessels.

TIRN COMMENTS on Ferry Mitigations: One viable option for mitigating the impacts to public ferry service would be to implement new zero or near-zero, non-fossil fueled America's Cup ferry service to accommodate peak demand for both water and landside transportation. An America's Cup ferry service could pick up and drop off passengers along the city waterfront and from ferry terminals around the Bay with a new purpose-built ferry vessel. This type of "circle the Bay" service has been envisioned in the past. The city and Port has also consistently supported clean ferry vessels on the Bay in partnership with other agencies and operators so such a service would be consistent with city and port policy. For example, the city helped WETA (when still the WTA) secure federal funding for a fuel cell ferry for Treasure Island through Rep. Pelosi. Unfortunately that vessel was never built.

To mitigate the transportation and air quality impacts, the city, port and AC should provide an America's Cup ferry that is zero or near-zero emissions that operates primarily on renewable energy. As it would primarily serve spectators, visitors and others travelers mostly during peak weekend, non-commute time, the vessel would not need the horsepower, speed and other requirements of on-going commuter service, thereby eliminating the need for noisy and polluting diesel engines for primary propulsion. 35 [TR-7e]

TIRN recommends that a new America's Cup ferry be built, financed and operated by a partnership with the city, the Port of San Francisco, the America's Cup Event Authority as a way to mitigate some emissions for CEQA requirements given the high impacts to transportation and air quality (and the need to mitigate these impacts long-term if Oracle wins the Cup again and the cruise terminal project is affected). The America's Cup Race Management, the Oracle Racing team, air and water quality agencies and grants, public and private ferry operators and builders could cooperatively fund the project for use during the America's Cup activities. After the Cup and during non-Cup activities it could be deployed for use at Treasure Island or elsewhere, or the America's Cup Bay ferry service continued. Such a vessel could be built in a year or less or an existing vessel could be leased or modified. Neither the city, the port nor the America's Cup Event Authority would need to operate the vessels as many existing operators are available to do so once the vessel is constructed.

Several real-world examples of such vessels include the wind-powered, winged ferry recently proposed to Golden Gate Transit by Winged+Wing Technologies of Napa; and the Solar Sailor of Australia, which is operating clean vessels around the world. TIRN could easily provide more information and contacts with these technology providers.

This proposed mitigation could reduce the impacts to ferry service on the Bay to less than significant in a cost-effective way that would also reduce the significant and unavoidable air quality impacts, which remain a major concern, given the potential harm to human health and the Bay environment.

Other options to remedy the water transportation impact include:

- Charter for peak times an existing sailing vessel that already operates on the Bay and carries passengers on non-commute services such as sunset cruises. (TIRN does not recommended "hybrids" which are not wind or sail powered, but older diesel vessels with various add-ons that provide little if any power or emissions reductions).
- Adding service from existing ferry operators may not be cost effective, efficient or environmentally friendly since the vessels now operating on the Bay range tremendously in speed, size, and type of engine and emissions generation.

Another, though far less desirable, option for mitigating impacts to public ferry service would be to contract with existing private charter vessels that meet California's air emissions standards to fill in during peak times (Red & White, Angel Island). However, the increased impacts to air emissions must be considered and mitigated if existing vessels are utilized. 35 [TR-7e] cont.

5.6 Impacts of Mitigation Measures M-TR-21, 22, 23
TIRN COMMENT: Several statements in the following paragraph that is repeated in several sections of the Transportation and Circulation section are inaccurate:

While the identified mitigation measure would reduce transportation impacts, any increase in ferry or bus service would result in an increase in air quality emissions from those sources. However, those increases in emissions would be offset by a reduction in vehicle emissions associated with the reduction in vehicle traffic because of the increased availability of transit. 36 [AQ-9]

The emissions from ferries, buses and cars are not equal. In fact the per-person and total emissions from a ferry, particularly a high speed ferry, will be higher than from cars or buses. So it is wrong for this document to assume that increasing ferry service would automatically reduce emissions.
The actual emissions based on transit type must be evaluated on a per-passenger and total passenger basis, quantified and compared, and mitigations implemented, and the statement corrected.

The extent of the increase in emissions and any offset reduction are not quantified in this EIR because the results would not change the outcome of the air quality analysis described in Section 5.8. As described in Section 5.8, Air Quality, all feasible mitigation measures to reduce air quality emissions are recommended to provide the maximum feasible reduction in emissions.
TIRN COMMENT: We do not agree that "*all feasible mitigation measures*" have been considered or proposed. As our comments above reflect, far more can be done to prevent excess emissions from marine vessels during the events. 37 [AQ-5]

Even with implementation of those measures, the air quality impacts associated with criteria pollutant and precursor emissions, as well as associated health risk impacts, would remain significant and unavoidable.
TIRN COMMENT: Far more can and should be done to prevent excess emissions as described in these comments and elsewhere, such as requiring use of cleaner fuels and engines in marine vessels, and providing shoreside power and/or cleaner non-diesel generators the meet the strictest state and federal air quality standards.

The incremental air quality impact associated with the transportation mitigation measure would therefore not affect the conclusions of the air quality impacts, and all identified air quality mitigation measure would remain the same. 38 [AQ-9]

TIRN COMMENT: This statement is inaccurate and misleading because the full range of transportation mitigation measures has not been considered or implemented.

Implementation of the transportation mitigation measure, to the extent that it would reduce air quality emissions from vehicular traffic, would augment the air quality mitigation measures in reducing air quality impacts.
TIRN COMMENT: This statement is inaccurate and misleading because the full range of transportation mitigation measures has not been considered or implemented. 38 [AQ-9] cont.

Table 5.6-16 on p. 5.6-63
TIRN COMMENT: The estimated "Parking Demand by Area for AC34 2012 and 2013 Event days" in Table 5.6-16 does not include parking demand associated with trips to San Francisco by ferry. TIRN's comment is that this parking demand and associated transportation and circulation impacts to departure terminals and communities be considered and included, including "cold starts" in the air quality section. 39 [TR-2b]

5.6 Impact TR-37:

TIRN COMMENT: Impacts on ferry service provided by Golden Gate Transit and other public and private operators could be larger than estimated in this section of the CEQA analysis which provide service to Giants games and other special events.

As written the DEIR acknowledges more generally that "it is possible that during certain special events, particularly those occurring on the weekend, transit capacity could be stretched to its limits and could not absorb the combination of riders for the AC34 2012 events as well as another special event. This could result in a significant transit impact and could adversely affect other modes, such as vehicles, due to overall high levels of congestion." 40 [TR-7e]

TIRN believes that specific mitigations for providing alternative, adequate and clean ferry service during competing special events must be provided. See above for possible mitigation, i.e. America's Cup clean ferry could provide a viable mitigation to this negative impact, as well as adding service from existing operators using clean non-diesel ferries.

5.6 Mitigation Measure M-TR-1:
TIRN COMMENT: The People Plan and associated management plans should be required and completed as part of CEQA, not separately, in order to avoid significant and unavoidable negative impacts and ensure a sustainable America's Cup. 41 [PD-7]

5.6 Mitigation Measure M-TR-85: Additional F-Market & Wharves Service
TIRN COMMENT: If the SFMTA cannot provide adequate Muni service to reduce the Cruise Terminals' impact on the operation of the F-Market & Wharves to less than significant, then the city must might other suitable mitigations to finance.
Once option could be the zero or near-zero emissions America's Cup Bay ferry service that could pick up passengers at or near the cruise terminal (Pier 39 or Pier 33) and take them to ferry terminal, where they could then access more public transit options, and/or walk.
The port could also impose a fee or secure other contributions from the cruise companies themselves to fund and provide alternative transportation for passengers disembarking from the cruise terminal. For example, a clean shuttle bus used only for shuttling passengers across the city. 42 [TR-13]

This is the end of TIRN's comments. We look forward to your response. Please keep us informed of any public hearings, meetings, workshops or actions related to the DEIR, the America's Cup, the 43 [INT-3]

construction of the new cruise terminal, developments related to shoreside power at Pier 27 and public processes for the numerous plans that are being developed in parallel to the CEQA process. 43 [INT-3] cont.

Sincerely yours,

Teri Shore

Teri Shore
Program Director
415 663 8590, ext. 104.

August 9, 2011

Ms. Monique Moyer, Executive Director
Port of San Francisco
Pier 1, The Embarcadero
San Francisco, CA 94111

Mike Martin, America's Cup Project Director
Office of Economic and Workforce
Development
City Hall
San Francisco, CA 94102

Re: Temporary Shutdown of Publicly Funded Shoreside Power Installation for Cruise Ships at Pier 27

Dear Ms. Moyer and Mr. Martin,

COM-264

Turtle Island Restoration Network, Natural Resources Defense Council and the public health and conservation organizations listed below are writing to seek your assistance in addressing our concerns about the temporary shutdown of the publicly funded shoreside power installation for cruise ships at Pier 27 for two to three years, or possibly longer, due to proposed America's Cup activities and plans for a new cruise terminal.

The Port of San Francisco demonstrated environmental leadership when it committed to constructing the $5 million shoreside power installation to reduce the significant air emissions generated by cruise ships while in port in advance of California state regulations that enter into force beginning in 2014. We recognize that the port, the city of San Francisco, the cruise industry, air quality agencies, public health advocates, environmentalists and business partners worked together for five years or more before unveiling the completed project in October 2010. The Port of San Francisco became the first California port, and one of only a handful of ports in the world, to provide shoreside electrical power for cruise ships while at berth. 44 [AQ-2]

Now with less than a year in operation, we were stunned to learn that this important and widely supported air quality project would be temporarily shut down in 2012, 2013 and possibly 2014 or longer without any plans to mitigate the 20 to 30 tons per year of criteria air pollutants that will be released.[1] The U.S. EPA estimates a much higher level of air emissions at up to 97 tons per year.[2]

As you are aware, air pollution has been documented to have a direct connection to asthma, lung cancer, bronchitis, heart disease and diabetes, with heavier impacts on low income communities already suffering from multiple sources of pollution.

[1] See Draft EIR for America's Cup and Cruise Terminal at 5-8.8.
[2] U.S. EPA estimate of shoreside power emissions reductions from cruise ships in Year Two and beyond, email communication 7/22/2011

It appears that no alternative options were considered by the port or the city to counter the emissions increase due to the shutdown or that any other air emissions reductions options were considered. The loss of shoreside power will create a significant air quality impact in the city and Bay Area that must be prevented or mitigated during the period that is it shutdown.

The fact that the shoreside power project was funded primarily by city, regional and federal public agencies to reduce emissions and protect human health and the environment in advance of regulation makes it even more critical that these emissions are prevented or reduced during the period of the temporary shutdown, not later. It is also of great concern that temporary shutdown was planned without sufficient consultation with the public. Recent discussions with port staff including a meeting on June 24 and public comments made to the city planning commission have not resulted in any resolution of these concerns.[3]

The $5.2 million dollar project was funded as follows: 44 [AQ-2] cont.

- $1.9 million – Bay Area Air Quality Management District (Carl Moyer Program)
- $1.3 million – San Francisco Public Utilities Commission (capital funds)
- $1.0 million – US Environmental Protection Agency (Diesel Emission Reduction Act Program)
- $1.0 million – Port of San Francisco (capital funds)

Because cruise ship emissions are the biggest air pollution source at the Port of San Francisco, it was cost effective and beneficial to fund the shoreside power project with public grants. However, it will be difficult, if not impossible, for the port and the city of San Francisco to meet the terms of the grants if the shoreside power is disconnected and not made up during the disconnect period.

It will be infeasible for the port to delay the emissions reductions until 2014 or later because: 1) Human exposure to air pollution occurs in real time so an individual's exposure now cannot be remedied by less exposure later, 2) state laws will require 50 percent of cruise ships to hook up to shoreside power in the beginning of 2014, so the port would need to go beyond that level to achieve emissions reductions "beyond" regulations, 3) only a finite number of cruise ships are equipped to hook up to shoreside power and the number of ship calls to the port is not expected to change in the future, 4) attempting to attract more ship calls to the port in order to meet the terms of the grant would be counterproductive and may violate the grant agreement.

Given that marine sources (ocean-going vessels and harbor craft) are the largest single source of criteria pollutant emissions at the Port of San Francisco, our organizations would like to offer the following possible mitigations for remedying the shoreside power situation. We prefer the following options to continue use of shoreside power facilities:

1. Do not shut down shoreside power for cruise ships at Pier 27. [Reconfigure the proposed site plans for the America's Cup and build the new cruise terminal without a shutdown; or with minimal downtime to allow for upgrading of the cruise terminal and electrical power levels.] 45 [AQ-5]
2. Relocate shoreside power to Pier 35 or another suitable pier temporarily to allow cruise ships to continue to hook up to city electrical power.

In the event that it is truly infeasible for the shoreside power facility to remain in use during the America's Cup event and/or construction of the new cruise terminal on Pier 27, we request a written explanation to document the reasons as soon as possible.

If the temporary shutdown is indeed infeasible, then we recommend some combination of the following potential mitigations to make up all emission reductions that would be lost as a result of this project: 46 [AQ-5]

1. Require cruise ships to take alternative measures to reduce air emissions in port such as using lower-sulfur marine distillate fuel in advance of regulation; using biodiesel in cruise ship

engines while in port; hooking up to shoreside generators operated on clean burning fuels such as natural gas or biodiesel.

2. Construct and put into service a new clean, zero emissions water taxi along the waterfront beginning in 2012 that operates primarily on wind, solar and clean fuels to mitigate the air emissions impacts. (excluding diesel ferries and the inefficient Alcatraz "hybrid".)
3. Retrofit existing marine vessels on the Bay to meet California's harborcraft regulations ahead of schedule.
4. Retrofit or provide shoreside power to cargo ships calling on the Port of SF in advance of new state standards for shipping fuel and shoreside power.
5. Implement other air quality projects in San Francisco that would benefit low income residents as well as visitors and port neighbors.
6. Implement air quality projects in neighboring communities that suffer disproportionately from air emissions impacts, such as West Oakland.

46 [AQ-5] cont.

We request that the Port of San Francisco, the City of San Francisco and the granting agencies and air district provide calculations on the number and type of emissions reductions that the shoreside installation was to achieve, over what period of time, and the cost effectiveness. Then we request that the same parties review the above alternatives and/or develop others that will achieve air emissions reductions equal to the level of emissions reductions lost during the temporary shoreside power shutdown, including not shutting down.

With the environmental review of related projects being fast-tracked, we urge you to provide this information no later than August 15 so that the planning commission can consider these recommendations as it considers its responsibilities under CEQA. The public comment deadline is August 25. We would like to see a written commitment to full mitigation and would be happy to discuss these details further at your convenience.

47 [AQ-2, AQ-5]

Sincerely yours,

Teri Shore

Diane Bailey

Teri Shore, Program Director
Turtle Island Restoration Network
PO Box 370, Forest Knolls, CA 94933
415 663-8590, ext. 104
www.seaturtles.org, www.tirn.net

Karen Pierce
Bayview Hunters Point Community Advocates
San Francisco, CA

Andy Katz Co-Chair,
Bay Area Clean Air Task Force
Government Relations Director,
Breathe California
2171 Junipero Serra Blvd., Suite 720
Daly City, CA 94014
650-994-5868
www.breathecalifornia.org

Diane Bailey, Senior Scientist
Natural Resources Defense Council
111 Sutter Street, 20th Floor
San Francisco, CA 94104
415-875-6100
www.nrdc.org

Jennifer Clary
Policy Analyst
Clean Water Action
111 New Montgomery St # 600
San Francisco, CA 94105-3618
415-369-9160
www.cleanwateraction.org

Ken Coren
Dolphin Club of San Francisco
502 Jefferson Street
San Francisco, CA 94109
415-441-9329
www.dolphinclub.org

Joel Ervice, Associate Director
Regional Asthma Management & Prevention (RAMP)
A Project of the Public Health Institute
180 Grand Ave., Suite 750
Oakland, CA 94612
510-302-3316 office
www.rampasthma.org

Becky Evans
Sierra Club
85 Second Street, 2nd Floor
San Francisco, CA 94105
www.sierraclub.org

Jon Golinger, President
Telegraph Hill Dwellers Association
P.O. Box 330159
San Francisco CA 94133
415- 273-1004
www.thd.org

Jennifer Clary, President
San Francisco Tomorrow
http:/ www.sanfranciscotomorrow.org

Brian Beveridge, Co-Director
West Oakland Environmental Indicators Project
1747 14th Street
Oakland, CA. 94607
510-257-5645
WOEIP.ORG

Cc: Bay Area Air Quality Management District, U.S. EPA Region 9, SF Public Utilities Commission. SF Planning Commission, San Francisco Mayor's office, America's Cup Event Authority, America's Cup Organizing Committee, Lt. Governor Gavin Newsome, California Air Resources Board

Port of San Francisco Shore Power Project Analysis

Project #: 08MOY120

Contract between PoSF and BAAQMD for $1.9 million in AB923 funds executed on 10/5/09

Cost-effectiveness calculation (2008 CMP Guidelines)

Variables	*Value*	*Units*
NOx rate	13.9	g/kW-hr
ROG rate	0.49	g/kW-hr
PM rate	0.25	g/kW-hr
Avg. berthing time	8.4	hrs/ visit
Annual visits	39	visits/ year
Control factor	0.9	90% reduction
Transformer cost %	50%	max eligible $
Transformer cost	$ 3,800,000.00	
Other project costs	$ 1,400,000.00	
In-berth electrical load	6,800.00	kW
Project life	3	Years
CRF	0.36	
CE Limit	$ 16,000.00	/ton of [NOx + ROG + (20*PM)] reduced

Emissions and Cost-effectiveness Calculations		
NOx reductions	30.719	Tons/yr
ROG reductions	1.083	Tons/yr
PM reductions	0.553	Tons/yr
Total Project Cost	$ 5,200,000.00	
Max incremental cost	$ 1,900,000.00	
Cost-effectiveness		
Max. funding @ CE limit	$ 1,904,977.78	
Cost-effectiveness (check)	$ 16,000.00	

From Port of San Francisco 2009-10 DERA application

Table 2: Estimated Air Emission Reductions (at minimum) to be Achieved by Project

Pollutant	Reduction Per Ship Call, tons	Reduction First Year, tons (min. 15 calls)	Reductions Second and Later Years (min. 40 calls)
SOx	0.513	7.70	20.52
PM10	0.0595	0.89	2.38
PM2.5	0.0545	0.82	2.18
NOx	1.68	25.2	67.2
CO2	83.6	1,254	3,344
CO	0.133	2.00	5.32
HC	0.048	0.7	1.9

In the above estimates, the Port assumes that the CARB 2014 cruise ship requirement for shoreside power capability (or alternative) will result in most if not all of the West Coast fleet of cruise ships being equipped for shoreside power. While the Port has had 55 to 90 cruise calls in the last few years, the Port assumed that in 2014 and beyond, it would average 50 calls, 40 of which would use shoreside power. Public health savings use the well circulated figures of $7,300/ton of SOx, $1,300/ton of NOx and $18,200/ton of PM10.

O-WFA

Justin L. Allamano
Waterfront For All

RECEIVED
AUG 25 2011
CITY & COUNTY OF S.F.
PLANNING DEPARTMENT
MEA

August 24, 2011

San Francisco Planning Commission
1650 Mission Street, Suite 400
San Francisco, CA 94103

Re: 2010.0493E The 34th America's Cup and James R. Herman Cruise Terminal and Northeast Wharf Plaza Draft Environmental Impact Report

Dear Commisioners,

I am a San Francisco waterfront resident and founder of Waterfront For All (WFA). WFA is a grassroots coalition of SF residents committed to proactive engagement in northern waterfront activities and development - from Fort Mason to AT&T Park.

While we are very excited that this event is coming to our waterfront, we want to make sure that when the event is over, what remains will serve San Francisco now and for future generations. We realize that having an event of this size will require all city residents to make some sacrifices. Still, we have some concerns. Specifically, we do not think that the impacts to the Aquatic Park have been fully analyzed.

A number of our members are frequent swimmer at Aquatic Park. We want to make sure that public access to the Aquatic Park is taken into consideration and that water and air quality impacts are mitigated. In particular, the mooring for the proposed Jumbotron in the Aquatic Park has the potential to have negative impacts on water quality. Further, increased boating traffic has the potential to endanger swimmers. The DEIR appears to completely gloss over the intensity of the swimming and boating use at this location. Similarly, the historical significant of the Dolphin Boating and Swimming Club and the South End Rowing Club (both open to the public) is not fully discussed. Hundreds of people have been swimming and boating daily in the cove since the 19th century. Mitigation measured should be taken to accommodate their use. 01 [HY-3, RE-2]

Regards,

Justin Allamano

COM-267

O-WW

Lippe Gaffney Wagner LLP www.lgwlawyers.com

SAN FRANCISCO · 329 Bryant St., Ste. 3D, San Francisco, CA 94107 · T 415.777.5600 · F 415.777.9809
SACRAMENTO · 9333 Sparks Way, Sacramento, CA 95827 · T 916.361.3887 · F 916.361.3897

Thomas N. Lippe
Brian Gaffney
Keith G. Wagner
Kelly A. Franger
Erin C. Ganahl

August 25, 2011

Bill Wycko, Environmental Review Officer
San Francisco Planning Department
1650 Mission Street, Suite 400
San Francisco, CA 94103

Via Personal Delivery and E-Mail

Re: Comments on Draft Environmental Impact Report - The 34th America's Cup Races and James R. Herman Cruise Terminal and Northeast Wharf Plaza (SF Planning Case No. 2010.0493E)

Dear Mr. Wycko:

This office represents Waterfront Watch, an association dedicated to protecting environmental and recreational values in the San Francisco Bay Area. I am writing on behalf of Waterfront Watch to comment on the Draft Environmental Impact Report ("DEIR") for the 34th America's Cup Races and James R. Herman Cruise Terminal and Northeast Wharf Plaza Project ("Project") and to object to the approval of the Project.

I. THE DEIR INACCURATELY DEFINES ITSELF AS A "PROJECT-LEVEL EIR" RATHER THAN A PROGRAM EIR.

Despite the fact that the long-term development components of this Project are completely inchoate at this time, this DEIR defines itself as a project-level EIR rather than a program-level EIR. The only exceptions to this are the DEIR's assessments of the impacts of marina development at the Rincon Point Open Water Basin at Piers 14-221/2 and Brannan Street Wharf Open Water Basin at Piers 32-36 (DEIR p. 3-93). The DEIR's rationale for defining its assessment of these two components as a "program-level" is "the absence of any detailed proposals for marinas at this time." (*Id.*) But this rationale applies equally to all the other possible long-term development possibilities. Therefore, the DEIR should define its assessment of all long-term development components of the Project as "program-level." The failure to do so is legally incorrect and a disservice to the public the DEIR is designed to inform. 01 [IO-5]

The distinction between a project-level EIR and a program-level EIR is important because the "standard of review" that future courts will apply to projects implementing the Authority's long-term development rights depends on whether this is a project-level EIR or a program-level EIR. (*Sierra Club v. County of Sonoma* (1992) 6 Cal. App. 4th 1307, 1316-1318.)

If this EIR is a project-level EIR, the standard of review that future courts will apply to the

City's decision regarding how to conduct CEQA review of that future application is "substantial evidence" standard. Under this standard of review courts accord a measure of deference to the agency's determinations and decisions. If, however, this is a program EIR, the standard of review that will apply to the City's CEQA review of future project applications for long-term development projects is the "fair argument" standard under which courts lean in favor of requiring preparation of an environmental impact report. (*Sierra Club v. County of Sonoma, supra,* 6 Cal. App. 4th at pp. 1316-1318.)

Understanding these legal consequences requires an understanding of how CEQA works when a dispute about the legality of a CEQA document reaches the courts, and requires a particular understanding of the standard of review that courts apply when deciding whether an agency has complied with or violated CEQA.

CEQA requires that public agencies intending to permit or carry out a project that may affect the physical environment must review the project under one or more of CEQA's procedures. The first step in this process is "preliminary review" for the purpose of determining whether is subject to CEQA in the first instance or exempt from further review.

If the project is subject to CEQA and not exempt, the agency must move to the second step and prepare an Initial Study to determine if it may have significant adverse effects on the environment. If the agency determines the project will not have significant environmental effects, it must prepare a "negative declaration" and CEQA review is over.[1] If a member of the public challenges this decision, the standard or review that the courts apply is the "fair argument" standard.

> The "fair argument" test is derived from section 21151, which requires an EIR on any project which "may have a significant effect on the environment." That section mandates preparation of an EIR in the first instance "whenever it can be fairly argued on the basis of substantial evidence that the project may have significant environmental impact." [citation] If there is substantial evidence of such impact, contrary evidence is not adequate to support a decision to dispense with an EIR. [citations]; Section 21151 creates a low threshold requirement for initial preparation of an EIR and reflects a preference for resolving doubts in favor of environmental review when the question is whether any such review is warranted. [citations] For example, if there is a disagreement among experts over the significance of an effect, the agency is to treat the effect as significant and prepare an EIR. [citations]

(*Sierra Club v. County of Sonoma, supra*, 6 Cal. App. 4th at 1316.)

Thus, if the Initial Study determines the project may have significant environmental effects under the fair argument standard, the agency must prepare an Environmental Impact Report ("EIR")

[1] Pub. Resources Code, § 21080, subd. (c).

to assess the nature and extent of these impacts, identify mitigation measures and discuss project alternatives that could substantially reduce or avoid the project's significant environmental effects.

While not strictly relevant to the issue analyzed here, for the sake of completeness, I note that once an EIR is prepared, the standard of review that applies to any challenge depends on the nature of the alleged defect, and will either be the "independent judgment" of the court or the deferential "substantial evidence" standard. (*Clover Valley Foundation v. City of Rocklin* (2011) 197 Cal.App. 4th 200, 211-212 .) In no case, however, will the standard be as favorable to environmental concerns as the "fair argument" test.

For purposes the issue discussed here, the critical step in the CEQA process is what happens once an agency certifies the EIR for a project and the statute of limitations for challenging that EIR expires. In that situation, as noted above, the standard of review that courts will apply to the agency's decision whether to require preparation of a new EIR depends whether the first EIR is project- or program-level.

> [A]fter an EIR has been prepared for a project, section 21166 prohibits agencies from requiring a subsequent or supplemental EIR unless "substantial changes" are proposed in the project or in its circumstances which will require "major revisions" in the EIR, or unless certain new information becomes available. "[S]ection 21166 comes into play precisely because in-depth review has already occurred, the time for challenging the sufficiency of the original EIR has long since expired [citation], and the question is whether circumstances have changed enough to justify repeating a substantial portion of the process." [citation] Under section 21166, an agency's determination not to require a subsequent EIR must be based on substantial evidence in the record; if there are conflicts in the evidence, their resolution is for the agency. [citation]

(*Sierra Club v. County of Sonoma, supra*, 6 Cal.App.4th at 1320.)

On the other hand, "[I]f there is substantial evidence in the record that the later project may arguably have a significant adverse effect on the environment which was not examined in the prior program EIR, doubts must be resolved in favor of environmental review and the agency must prepare a new tiered EIR, notwithstanding the existence of contrary evidence" because "section 21166 and its companion section of the Guidelines appear to control only when the question is whether more than one EIR must be prepared for what is essentially the same project." (*Sierra Club v. County of Sonoma, supra*, 6 Cal.App.4th at 1319-1320.)

With this legal framework in mind, I turn to how the America's Cup DEIR deals with this subject. The relevant text of the DEIR follows:

> Future Long-Term Development Impacts and Mitigation Measures presents the analysis of impacts associated with the potential long-term development that could

occur as a direct consequence of implementation of the AC34 project, as described in Chapter 3, Project Description. *The purpose of the future long-term development impact analysis is explained in Section 5.1.4, below. For significant or potentially significant impacts of the future long-term development, feasible mitigation measures are described.*

(Page 5.1-2 [emphasis added].)

5.1.3 AC34 Event and Cruise Terminal Impacts

This chapter describes and analyzes the physical environmental impacts of the proposed AC34 and Cruise Terminal projects and the Pier 27 Shed Variant. As described in Chapter 3, Project Description, both the AC34 and Cruise Terminal projects have multiple components that are analyzed in this EIR. *For the AC events, including construction and operation of proposed facilities, and the Cruise Terminal project, the impact analysis is based on detailed, project-specific information. For the long-term development rights under the AC34 project, however, the impacts are analyzed at a conceptual level as described below in Section 5.1.4.* The discussion below provides an overview of the approach and considerations used in the impact analysis of the various project components and the project variant.

(Page 5.1-4 [emphasis added].)

5.1.4 Future Long-Term Development Impacts

As described in Chapter 3, the proposed AC34 project includes components for which site specific details have not yet been developed, namely the Event Authority's long-term development rights under future Disposition and Development Agreements (DDAs) provided for under the AC34 Host Agreement. *Because no specific long-term development proposal is defined at this time, this EIR analyzes the long-term development options at a conceptual level in order to ensure comprehensive environmental review of the project as a whole.* When site specific development or construction proposals are available, those development proposals will be subject to subsequent, project-specific CEQA review. The San Francisco Planning Department will make the determination of the appropriate level of CEQA review at that time. Long-term development mitigation measures identified in this EIR would be re-evaluated as part of project-specific CEQA review to determine their applicability and effectiveness to address any impacts identified for the site specific development proposal and would be re-iterated, clarified to be more project-specific, or replaced with equally or more effective measures, if needed.

The AC34 Host Agreement specifies that after the completion of the AC34 race event, in consideration of the Event Authority's investment in infrastructure required

for AC34, the Event Authority will have commensurate long-term development rights under DDAs. The DDAs would provide for the execution and delivery of legacy leases and a transfer agreement on the satisfaction of certain conditions. Consequently, after conclusion of the AC34 race events, the implementation of the AC34 project could lead to potential long-term development of the following sites: Piers 30 32, Seawall Lot 330, and Piers 28, 26, 19, 19½, 23, and 29 as well as Brannan Street Wharf (Piers 32 36) Open Water Basin and Rincon Point (Piers 14 22½) Open Water Basin. However, neither the Event Authority nor the City currently has specific plans for development of any of the venues that may be subject to DDAs, and the Host Agreement specifies that particular plans for development of those venues after AC34 will be subject to further project-specific environmental review under CEQA.

In the absence of specific long-term development proposals, the impact analysis the future long-term development in this EIR is based on the generalized development assumptions available within existing land use policies and guidelines for the sites identified for potential long-term development, as described in Chapter 3. Thus, the future long-term development impact discussions provide an assessment of potential physical effects of the long-term development from a broad, qualitative perspective, identifying the range of potential impacts or in some cases providing a screening threshold for potential impacts. The evaluation also identifies mitigation measures that appear feasible based on the conceptual nature of the future long-term development description. As stated above, when more detailed information becomes available on specific development proposals at these sites following the completion of AC34 events, those development proposals will be subject to subsequent, project-specific CEQA review.

(Pages 5.1-11 and 5.1-12 [emphasis added].)

The above text reflects the City's strategy for defining this EIR as a "project-level" rather than "program-level" for purposes of assessing impacts of "the Event Authority's long-term development rights under future Disposition and Development Agreements (DDAs) provided for under the AC34 Host Agreement." The City's strategy is essentially the same one it employed in the Treasure Island EIR, but it is more artfully implemented here than in the Treasure Island EIR. In the Treasure Island EIR, the City asserted that the EIR was project-level for the entire project, including future development constructed pursuant to DDA's between the Treasure Island Development Authority and developers. My office's comment on the Treasure Island EIR is equally applicable here: "The strategy driving this EIR is to cloak what should be a Program EIR in the clothing of a Project-level EIR so that any CEQA review for later development approvals is governed by section 21166 of CEQA. Section 21166 severely limits the circumstances that would allow the City, as lead agency, to require a full EIR on future development approvals on Treasure Island. Section 21166 also makes it much harder for citizens to challenge the CEQA review done for future development approvals on Treasure Island. The strategy driving this EIR will tilt the

02 [IO-5]

playing field that will exist in the future in favor of future developers and against the City and against the public by dissembling today about the true nature of this EIR."

The America's Cup DEIR states that it provides "project-level review" and that "for the AC events, including construction and operation of proposed facilities, and the Cruise Terminal project, the impact analysis is based on detailed, project-specific information" but that "this EIR analyzes the long-term development options at a conceptual level in order to ensure comprehensive environmental review of the project as a whole." Thus, at least the DEIR recognizes that the type of review provided for the two phases of the Project are different (i.e., one based on "detailed, project-specific information" and the other "at a conceptual level").

But the EIR's statement that "[b]ecause no specific long-term development proposal is defined at this time, this EIR analyzes the long-term development options at a conceptual level in order to ensure comprehensive environmental review of the project as a whole" is an oxymoron. It is simply not possible to analyze "long-term development options at a conceptual level" (i.e., without detailed, project-specific information) and at the same time "ensure comprehensive environmental review of the project as a whole." Because the long-term development portions of the project are not yet described, comprehensive environmental review of the "project as a whole" is impossible. 02 [IO-5] cont.

Here, any projects the Authority proposes in the exercise of its long-term development rights will be different project than the projects assessed in this EIR. The simple reason for this is that the EIR cannot, and does not, assess the impacts of those future projects due to the lack of any specific description of those projects. Therefore, even if this EIR is appropriately considered a project-level EIR for the race event and Cruise Terminal projects, with respect to the long-term development rights projects it is inaccurate to define the EIR as "project-level" because it is, of necessity, "program-level."

It is commonplace for agencies to prepare EIRs that are "program" level for some components and "project" level for others; and then to prepare and certify a later tiered "project" level EIR for project components that the first EIR did not disclose or analyze in sufficient detail. (*See* e.g. *Vineyard Area Citizens for Responsible Growth v. City of Rancho Cordova* (2007) 40 Cal.4th 412 [*Vineyard*]; *California Native Plant Society v. City of Rancho Cordova* (2009) 172 Cal.App.4th 603 [*CNPS v. City of Rancho Cordova*].) In *Vineyard*, the EIR was considered "project" level for the development of a portion of an overall community plan area, but a "program" for other portions of the community plan area for which no specific development proposals had yet been advanced. In *CNPS v. City of Rancho Cordova*, a "project" EIR for one of the "program" areas in the *Vineyard* EIR was at issue.[2]

---

[2]It is true that "whether a program or project-level EIR is appropriate in particular circumstances is a matter for the lead agency's discretion." (*In re Bay-Delta Programmatic Environmental Impact Report Coordinated Proceedings* (2008) 43 Cal.4th. 1143, 1175.) However,

II. FOR MANY RESOURCES, THE DEIR: (1) FAILS TO PROVIDE A COMPLETE PROJECT DESCRIPTION; (2) FAILS TO PRESENT EVIDENCE SUPPORTING THE EFFECTIVENESS OF MITIGATION MEASURES; AND (3) ILLEGALLY DEFERS THE DEVELOPMENT OF MITIGATION MEASURES.

The starting point for understanding this EIR's approach to mitigating the Project's environmental effects is the Venue and Host Agreement, where the City committed itself to both obtaining a complete project description and completing CEQA review for this Project in a short time frame in order to land the Project. The Venue and Host Agreement ("Agreement"), adopted in December 2010, provides a starting point for the timetable on January 7, 2011,[3] for a Project that has as its centerpiece sailboat races starting in July of 2012.[4] The Agreement also requires that the City complete CEQA review and obtain all required governmental approvals within 12 months of obtaining enough information to describe the project.[5] Finally, the America's Cup Event Authority, LLC (the "Authority") "may terminate this Agreement if the Authority determines, in the exercise of its good faith discretion, that the City or the Committee will be unable to timely and fully perform its respective obligations under this Agreement," including completing CEQA review. (Venue and Host Agreement, section 2.2(g).) 03 [INT-1, IO-4c, IO-5, PD-1]

In short, the City promised to conduct CEQA review within a short deadline without knowing whether doing so is possible, especially since obtaining a complete project description is not entirely within its control. Adding to this logistical difficulty, the City decided to combine the America's Cup race events with construction of a new cruise ship terminal - a different CEQA

---

an agency's exercise of discretion can be challenged on the ground that it has abused its discretion. (*Sierra Club v. County of Sonoma*, *supra*, 6 Cal.App.4th at p. 1316.)

[3] Venue and Host Agreement, section 1.1: "The selection of the host city for AC34 will be made by GGYC, acting in its sole discretion, by January 7, 2011. Unless written notice confirming that the City has been selected as the host city for the Event is delivered to the City and the Committee on or before January 7, 2011, this Agreement shall terminate and no Party shall be obliged to perform further hereunder ....."

[4] DEIR p. 1-1.

[5] Venue and Host Agreement, Section 2.1(a):"If selected as host city, the City as lead agency under CEQA will use its best efforts to complete the environmental review of the Event required under CEQA and, if such environmental review leads to a determination to proceed with the Event, to complete all actions necessary to obtain authorizations for the Event (including for the Infrastructure Work, as defined below) under both CEQA and applicable federal, state and local statutes, codes, ordinances and regulations, by no later than twelve months after the Authority has provided the City with sufficient information to prepare the "project" description required for CEQA review."

project that has been on the City's wish list for many years.[6] There is more. In order raise enough capital to build this part of project, the City granted long-term development rights on waterfront property to the Authority. To cap it off, the City then included all of the above components in the so-called "project" description for purposes of CEQA review. In trying to simultaneously achieve these many competing objectives, the City put itself in a position where something has to give, either landing the race events and the cruise terminal or proper environmental review.

03 [INT-1, IO-4c, IO-5, PD-1] cont.

One casualty of this logistical cul-de-sac is a DEIR that purports to assess the environmental effects of the Authority's exercise of its long-term development rights "at a conceptual level" but refusing to define it as a Program EIR. (See section I above.)

Other casualties include prematurely circulating a DEIR for public comment that suffers from the informational defects discussed in this section II, including: (1) failing to provide a complete project description; (2) failing to present evidence supporting the effectiveness of mitigation measures; and (3) illegally deferring the development of mitigation measures.

One of the fundamental requirements of CEQA is that a DEIR must present an "accurate, stable and finite project description." (*County of Inyo v. City of Los Angeles* (1981) 124 Cal.App.3d 1, 9 [an "accurate, stable and finite project description is the sine qua non of an informative and legally sufficient EIR."].) This DEIR consistently fudges many aspects of the project description.

04 [IO-4c, PD-1]

With respect to many of the mitigation measures that the DEIR says will reduce significant effects to less-than-significant ("LTS") or substantially reduce impacts that remain "significant and unavoidable" the DEIR fails to present evidence supporting these conclusions Instead, the DEIR simply assumes the conclusion it is supposed to prove. The case law clearly disallows this practice.[7]

---

[6] DEIR p.1-7.

[7] *See*, e.g., *Californians for Alternatives to Toxics v. Department of Food & Agriculture* (2005) 136 Cal.App.4th 1, 16 (lead agencies must review the site-specific impacts of pesticide applications under their jurisdiction, because "DPR's [Department of Pesticide Regulation] registration does not and cannot account for specific uses of pesticides..., such as the specific chemicals used, their amounts and frequency of use, specific sensitive areas targeted for application, and the like"); *Citizens for Non-Toxic Pest Control v. Department of Food & Agriculture* (1986) 187 Cal.App.3d 1575, 1587-1588 (state agency applying pesticides cannot rely on pesticide registration status to avoid further environmental review under CEQA); *Oro Fino Gold Mining Corporation v. County of El Dorado* (1990) 225 Cal.App.3d 872, 881-882 (rejects contention that project noise level would be insignificant simply by being consistent with general plan standards for the zone in question). *See also City of Antioch v. City Council of the City of Pittsburg* (1986) 187 Cal.App.3d 1325, 1331-1332 (EIR required for construction of road and sewer lines even though these were shown on city general plan); *Kings County Farm Bureau v. City of Hanford* (1990) 221 Cal.App.3d 692, 712-718 (agency erred by "wrongly assum[ing] that, simply because the smokestack emissions

Similarly, in a recent case, the Court of Appeal held:

> [I]n preparing the EIR, the agency must determine whether any of the possible significant environmental impacts of the project will, in fact, be significant. In this determination, thresholds of significance can once again play a role. As noted above, however, the fact that a particular environmental effect meets a particular threshold cannot be used as an automatic determinant that the effect is or is not significant. To paraphrase our decision in *Communities for a Better Environment*, a threshold of significance cannot be applied in a way that would foreclose the consideration of other substantial evidence tending to show the environmental effect to which the threshold relates might be significant.[8]

The case law regarding the illegal deferral of the development of mitigation measures to reduce a project's identified significant effects is also well-established. The general rule is that where an EIR identifies one or more significant environmental effects, the EIR's identification and discussion of mitigation measures may not rely on mitigation measures to be developed after project approval except in the limited circumstances where: (1) the mitigation measures require compliance with other existing regulatory requirements; or (2) "'[F]or kinds of impacts for which mitigation is known to be feasible, but where practical considerations prohibit devising such measures early in the planning process . . . , the agency can commit itself to eventually devising measures that will satisfy specific performance criteria articulated at the time of project approval." (*Gentry v. City of Murrieta* (1995) 36 Cal.App.4th 1359, 1394-1395 [emphasis added].)

04 [IO-4c, PD-1] cont.

"Reliance on tentative plans for future mitigation after completion of the CEQA process significantly undermines CEQA's goals of full disclosure and informed decisionmaking...." (*Communities for a Better Environment v. City of Richmond* ("*CBE v. Richmond*") (2010) 184 Cal.App.4th 70, 92.) For this reason, courts overturn EIRs that place the onus of mitigation on a future plan, leaving the public "in the dark about what [] steps will be taken, or what specific criteria or performance standard will be met...." (*Id.* at p. 93.) For instance, in *CBE*, the court overturned an EIR that merely proposed a generalized goal of mitigation and then set out a handful of "cursorily described mitigation measures for future consideration that might serve to mitigate" the project's impacts. (*Id.* at p. 92.) This DEIR suffers from the same deficiency with respect to numerous impacts.

---

would comply with applicable regulations from other agencies regulating air quality, the overall project would not cause significant effects to air quality.").

[8] *Protect the Historic Amador Waterways v. Amador Water Agency* (2004) 116 Cal.App.4th 1099, 1109 [underscore emphasis added], citing *Communities for a Better Environment v. California Resources Agency* (2002) 103 Cal.App.4th 98, 114 ("*CBE*"); accord *Mejia v. City of Los Angeles* (2005) 130 Cal.App.4th 322, 342 ["A threshold of significance is not conclusive...and does not relieve a public agency of the duty to consider the evidence under the fair argument standard."].)

A. HISTORIC RESOURCES.

1. Mitigation Measure M-CP-1a: Bulkhead Wharf Substructure Review Process (DEIR pp. 1-21 and 5.5-96).

I divided the following section of the DEIR into separate numbered paragraphs to make it easier to understand and analyze. The DEIR states:

> [1] Typically, ordinary maintenance and repair activities to maintain the structural integrity and function of the historic resource include cleaning, repair and sealing of concrete supporting piles and cap beams below the deck of the bulkhead wharf concrete to abate spalling concrete and exposed rebar. In some cases, the existing piles are strengthened by the installation of shotcrete, fiberglass wrap or are jacketed to enclose the historic materials and extend their functional integrity and lifespan.
>
> [2] Likewise, alteration or in-kind replacement is required when component parts or areas of the structure wharf are severely deteriorated that it is beyond the ability to repair them. Reconstruction and alterations required for the AC34 project may involve new materials and designs that may be out of character with the adjoining bulkhead wharves and could result in a significant impact on the historic resource.
>
> [3] Because ordinary maintenance, repair and alteration to bulkhead wharves is reviewed for consistency with the Port's Guidelines and therefore considered consistent with the Secretary's Standards it would have a less-than significant impact.
>
> [4] However, to address the potential significant impacts that may result from the AC34 project, and in the event the demands of the program make compliance with the Port's guidelines infeasible, implementation of Mitigation Measure M-CP-1a (Bulkhead Wharf Substructure Review Process) would reduce the potential impacts associated with demolition and reconstruction of the bulkhead wharf to less than significant. This measure would require potential demolition and reconstruction of bulkhead wharves to meet performance measures designed to retain certain character defining features of the wharf that are necessary to maintain the visual continuity of the resource and its overall appearance, as well as the public experience of these contributing resources to the Embarcadero Historic District.
>
> [5] The project proposes to respond to the severity of deterioration and the proposed use program at each bulkhead wharf location. Because the structural analysis and engineering approaches available to achieve code compliance are continuing to be developed, this impact analysis assumes a range of improvements, from ordinary maintenance and repair to demolition and reconstruction of the bulkhead wharf.

(DEIR pp. 5.5-78 and 5.5-79.)

I had to read this section several times to decipher what is being deferred - the project description itself, or the mitigation measures designed to reduce the project's significant impacts. It turns out it is both.

Paragraph [1] of the impact assessment discussion above describes the portion of the Project that involves "ordinary maintenance and repair activities to maintain the structural integrity and function" of this historic resource (i.e., section 10 of the Piers 30-32 Bulkhead Wharf). However, while paragraph [1] describes these activities in general terms, it does not describe whether these activities are necessary for any portion of section 10, or if so, where these activities will take place on this structure, nor does it describe which of these activities will be used (e.g. "cleaning, repair and sealing of concrete supporting piles and cap beams" vs. "installation of shotcrete, fiberglass wrap or [] jacketed"). Thus, the project description is incomplete. 05 [CP-9a]

Paragraph [2] of the above impact assessment discussion describes "reconstruction and alteration" activities that "could result in a significant impact." Again, the text does not describe whether these activities are necessary, where these activities will take place, or which activities will be used. Since these activities may cause significant impacts, this is a serious project description defect.

Paragraph [3] of the above impact assessment discussion appears to wrap all of the above activities (i.e., "ordinary maintenance, repair and alteration to bulkhead wharves") into one category that will be "reviewed for consistency with the Port's Guidelines and therefore . . . would have a less-than significant impact."[9] But this appears to be inaccurate. 06 [CP-9a]

The Port's Guidelines state their applicability as follows:

> The Guidelines will be used in the review of pier and bulkhead wharf substructure projects that are subject only to approval by the Port. Projects affecting District resources which are subject to review and approval by any of the following entities are not subject to these Guidelines, in recognition of the separate review criteria and practices employed by those agencies to administer the Secretary's Standards:
> 1) Federal Undertakings - Requiring Section 106 consultation
> • Projects receiving federal funding
> • Transfer of federal property
> • Approval of a federal permit, license or similar entitlement (i.e. Army Corps. of Engineers)

[9] The Port of San Francisco's Historic Preservation Guidelines for the Review of Pier and Bulkhead Wharf Substructure, Port Commission Resolution No. 0489, adopted October 26, 2004. (See DEIR p. 5.5-96, n. 149.)

2) Federal Historic Preservation Tax Credit Projects – Requiring State Office of Historic Preservation and National Park Service approvals
3) San Francisco Landmarks Preservation Advisory Board – Subject to Planning Code Article 10 Provisions for City Landmarks and City Historic Districts

(Exhibit 1 hereto.)

San Francisco Planning Code, Article 10, § 1005, subdivision (a) provides:

"No person shall carry out or cause to be carried out on a designated landmark site or in a designated historic district any construction, alteration, removal or demolition of a structure or any work involving a sign, awning, marquee, canopy, mural or other appendage, for which a City permit is required, except in conformity with the provisions of this Article 10."

Section 1005, subdivison (e) provides, inter alia:

Notwithstanding the foregoing, in the following cases the Department shall process the permit application without further reference to this Article 10: . . . (3) When the application is for a permit to do ordinary maintenance and repairs only. For the purpose of this Article 10, "ordinary maintenance and repairs" shall mean any work, the sole purpose and effect of which is to correct deterioration, decay or damage, including repair of damage caused by fire or other disaster.

06 [CP-9a] cont.

As a result, it would appear that ordinary maintenance and repair work is subject to the Port's Guidelines, but the remainder of the alterations, reconstruction and demolition that may or may not be done to these historic resources is not subject to the Port's Guidelines. Indeed, M-CP-1a excludes "ordinary maintenance and repair" from its purview, but includes work beyond "ordinary maintenance and repair" stating:

"To mitigate potential impacts on Sections 3, 4 and 10 of the Bulkhead Wharf, <u>for proposed work other than ordinary maintenance and repair</u> (as defined in the Port's Historic Preservation Review Guidelines for Pier and Bulkhead Wharf Substructures), the project sponsor shall be required to meet the following performance measures .... Prior to issuance of Port building or encroachment permits for repair or alteration of pier and bulkhead wharf substructures, the project sponsor shall obtain a determination from the Port indicating that the project as proposed is consistent with either the Historic Preservation Review Guidelines or the above performance measures and therefore the Secretary of the Interior's Standards for the Treatment of Historic Properties (Secretary's Standards)."

Thus, the DEIR implicitly recognizes that, in order for the Port's Guidelines to have any applicability to work beyond "ordinary maintenance and repair," it is through this mitigation

measure rather than through the operation of existing background regulatory law. This is an important point for two reasons. First, it disqualifies this mitigation measure from the exception to the rule against deferral of mitigation measures that require compliance with existing regulatory requirements. Second, the DEIR is entirely opaque on this topic, making it extremely difficult for the average reader to understand.

06 [CP-9a] cont.

Further, under M-CP-1a, for reconstruction, alteration and demolition/reconstruction work on this resource, the Project sponsor has a choice between "a determination from the Port" that the project is consistent with either (1) "the Historic Preservation Review Guidelines" or (2) "the above performance measures." The former choice is based on an unproven assumption that consistency with "the Historic Preservation Review Guidelines" guarantees that impacts will be reduced to LTS. The latter choice is based on an unproven assumption that consistency with "the above performance measures" guarantees that impacts will be reduced to LTS. The EIR presents no evidence to support either assumption.

The DEIR then assumes, again without any evidence, that performance of either of these choices renders the project consistent with the "Secretary's Standards." Finally, the DEIR assumes, again without any supporting evidence, that consistency with the "Secretary's Standards" ensures that impacts will be reduced to LTS.

But the DEIR also concedes, in a different location, that "Compliance with the Secretary's Standards does not determine whether a project would cause a substantial adverse change to the significance of a historic property." (DEIR p. 5.5-67.) At the same time, the DEIR also contends that: "Rather, projects that comply with the Secretary's Standards benefit from a regulatory presumption that they would have not have an adverse effect on a historic property." (*Id.*) No explanation of or support for this latter contention is provided.

07 [CP-9a]

Perhaps the DEIR has in mind CEQA Guideline 15126.4(b)(1), which provides: "Where maintenance, repair, stabilization, rehabilitation, restoration, preservation, conservation or reconstruction of the historical resources will be conducted in a manner consistent with the Secretary of the Interior's Standards for the Treatment of Historic Properties with Guidelines for Preserving, Rehabilitating, Restoring, and Reconstructing Historic Buildings (1995), Weeks and Grimmer, the project's impact on the historical resource shall generally be considered mitigated below a level of significance and thus is not significant", or CEQA Guideline 15064.5(b)(3), which says much the same thing. But this guideline is not presumptive. It only states that impacts will "generally" be considered LTS if the project disclosed and analyzed in the EIR "will" be conducted in a manner consistent with the Secretary's Guidelines. Here, it cannot be known with certainty whether future "reconstruction" or other activities will or will not be consistent with the Secretary's Guidelines, because such activities have not been proposed or described.

In addition, any interpretation of these Guidelines as being "presumptive" despite the lack of disclosure of project-specific details of such activities or how they may impact historic resources would be inconsistent with the case law cited at footnotes 6 and 7 above and therefore, cannot be

08 [CP-9a]

enforced. (*Laurel Heights Improvement Assn. v. Regents of University of California* (1993) 6 Cal. 4th 1112, 1123 ["This court has yet to decide whether the Guidelines are regulatory mandates or merely aids to interpretation. We need not decide this issue in this case. We, however, have recognized that, '[a]t a minimum, . . . courts should afford great weight to the Guidelines except when a provision is clearly unauthorized or erroneous under CEQA.'"].)

Paragraphs [4] and [5] concede that the project description is incomplete. Paragraph [4] informs the reader that "the demands of the program" may "make compliance with the Port's guidelines infeasible" and introduces the idea that the "maintenance and repair activities" may include "demolition." Paragraph [5] concedes that "the structural analysis and engineering approaches" that are needed to provide a complete project description have not been "developed" and justifies this by stating: "this impact analysis assumes a range of improvements."

While the opinion in *Sacramento Old City Assn. v City Council* (1991), 229 Cal. App. 3d 1011, affirmed an agency decision to defer the specification of exact mitigation measures where the agency committed itself to implementing one or more of a range of measures tied to specific performance standards, neither that nor any other case authorizes an agency to avoid providing a complete project description for purposes of assessing the significance of the project's impacts based on a rationale that the project may consist of a "range of improvements." 08 [CP-9a] cont.

Unfortunately, without a complete and stable project description, neither the agency nor the public can reliably assess the nature and extent of the Project's impacts. Without a reliable assessment of the nature and extent of the Project's impacts, it is impossible to judge whether any mitigation measures are likely to be effective in either substantially reducing significant impacts or reducing them to LTS.

The simple fact is that the City has not described the portions of the project that may affect wharf-related historic resources because it is rushing to judgment on this EIR to meet its self-imposed time constraints, as discussed above.

Moreover, the deferral of mitigation measures in M-CP-1a does not meet the legal standards discussed above because there is no evidence in the EIR to support a conclusion that its performance standards are achievable or that it is impracticable to develop the applicable measures before Project approval.

2. Mitigation Measure M-CP-1b: Protection of Historic Resources due to Indirect Damage.

This measure addresses significant impacts at Fort Mason, Crissy Field/Presidio Bluffs, Cavallo Point as well as an unspecified number of unidentified locations within "[s]econdary viewing areas within GGNRA lands in Marin and San Francisco Counties (Marin Headlands, Fort Baker, Baker Beach, Presidio, and Fort Point), as well as publically accessible areas of Yerba Buena/Treasure Island and State Parks land of Angel Island." The DEIR describes these impacts

as follows:

> Increased visitation at Fort Mason could affect some of the sensitive historic resources present in that area. For example, historic earthen fortifications are present on the north facing bluff of Upper Fort Mason; these sensitive features could be subject to erosion due to visitors straying off designated paths to view event races on the Bay. This would be a potentially significant impact. Mitigation Measures CP-1b (Protection of Historical Resources due to Indirect Damage) is recommended to ensure that impacts to earthen fortifications would be less than significant. This measure calls for inclusion of specific measures in the Parks Event Operations Plan, to be prepared and implemented in support of the proposed project (see Chapter 3)

(DEIR p. 5.5-91.)

> Historic earthen fortifications located on the Presidio Bluffs above the western end of Crissy Field, specifically, Battery East, could be damaged from increased erosion due to visitors straying off designated paths to view event races on the Bay. Mitigation Measure CP-1b (Protection of Historical Resources due to Indirect Damage) is recommended to ensure that impacts to earthen fortifications would be less than significant. This measure calls for inclusion of specific measures in the Parks Event Operations Plan, to be prepared and implemented in support of the proposed project. The measure would require that the plan shall incorporate specific elements to protect cultural resources, including the use of removable protective fencing, signage, area closures, pre- and post- event conditions assessments and damage repair, and educational and awareness programs

(DEIR p. 5.5-93.)

> Historic earthen fortifications located along the bluffs in the Cavallo Point area could be damaged from increased erosion due to visitors straying off designated paths to view event races on the Bay. Mitigation Measures CP-1b (Protection of Historical Resources due to Indirect Damage) is recommended to ensure that impacts to earthen fortifications would be less than significant. This measure calls for inclusion of specific measures in the Parks Event Operations Plan, to be prepared and implemented in support of the proposed project. The mitigation measure would require that the plan incorporate specific elements to protect cultural resources, including the use of removable protective fencing, signage, area closures, pre- and post-event conditions assessments and damage repair, and educational and awareness programs.

(DEIR p. 5.5-93 to 5.5-94.)

> America's Cup 2013 Spectator Areas. The impacts at the event facilities and viewing

> areas listed above for the 2012 AC events would be generally similar during the 2013 events .... attendance for the 2013 is expected to be higher than the 2012 event .... Impacts from increased off-trail visitor use at Fort Mason, Crissy Field/Presidio, and Cavallo Point would potentially be greater during the 2013 events due to the expected higher attendance. Mitigation Measure M-CP-1b (Protection of Historic Resources due to Indirect Damage) specified for each venue in 2012 would also apply in 2013 to ensure that all impacts remain less than significant. This measure calls for inclusion of specific measures in the Parks Event Operations Plan, to be prepared and implemented in support of the proposed project. The mitigation measure would require that the plan incorporate specific elements to protect cultural resources, including the use of removable protective fencing, signage, area closures, pre- and post- event conditions assessments and damage repair, and educational and awareness programs.

(DEIR p. 5.5-94.)

> America's Cup Secondary Viewing Areas. Secondary viewing areas within GGNRA lands in Marin and San Francisco Counties (Marin Headlands, Fort Baker, Baker Beach, Presidio, and Fort Point), as well as publically accessible areas of Yerba Buena/Treasure Island and State Parks land of Angel Island, would be subject to impacts from increased off-trail visitor use. For example, historic earthen fortifications within the Presidio's east and west bluffs could be damaged due to increased erosion from visitors attempting to view the event races from these higher Bay shoreline elevations. Such activities could have a potentially significant impact on historic resources. Mitigation Measure M-CP-1b (Protection of Historic Resources due to Indirect Damage) is recommended in these locations to ensure that impacts remain less than significant. This measure calls for inclusion of specific measures in the Parks Event Operations Plan, to be prepared and implemented in support of the proposed project. The mitigation measure would require that the plan incorporate specific elements to protect cultural resources, including the use of removable protective fencing, signage, area closures, pre- and post- event conditions assessments and damage repair, and educational and awareness programs.

(DEIR p. 5.5-95.)

Simply put, Mitigation Measure M-CP-1b represents an illegal deferral of the development of specific mitigation measures to reduce identified significant impacts because it does not meet the legal standards discussed above. While it contains a range of measures that might be used, only one of them establishes a performance standard, which states: "Any unintended damage to historic resources as a result of the AC34 event will be repaired by the project sponsor to its pre-event condition." There is no evidence this standard is achievable and no evidence that it is impracticable to specify these measures before project approval. **09** [CP-9b]

3. Mitigation Measure M-CP-1c: Protection of Historic Resources due to Direct Damage.

This measure addresses significant impacts at Marina Green and possible other locations as follows:

> Temporary floating docks to be installed just north from the Marina Green would provide anchorage for tender and race official boats and possibly some private spectator boats for the 2012 events. The temporary floating docks would be constructed parallel to the Marina Seawall, a resource eligible for listing in the NRHP, and would be accessed from a gangway connecting the Marina Green and public promenade with the floating docks below. The gangway is anticipated to be a cantilever structure so as to avoid any impact on the historic seawall. The design may include a concrete counterweight installed behind the seawall and a steel frame structure would be constructed to cantilever over the wall to provide the support for the proposed gangway. However, as the specific design and attachment method of the gangway are not fully known at this point, it is conservatively assumed that this activity would have a potentially significant impact to the integrity of the historic seawall, including its curved, cobble stone-clad facade and stone cap. Implementation of Mitigation Measures M-CP-1c (Protection of Historic Resources due to Direct Damage), which calls for a review of the gangway attachment methods for compliance with the Secretary's Standards, would ensure that impacts would be reduced to a less-than-significant level.

(DEIR p. 5.5-92.)

Once again, the DEIR's discussion of mitigation measures for this impact is premature because the Project description is incomplete. Without knowing where and how the gangway will be attached, neither the City nor the public can assess the nature and extent of the impact much less how effective this mitigation measure will be. **10** [CP-9c]

Moreover, this deferred mitigation measure does not comply with the legal standards discussed above for several reasons. The measures states:

> <u>The project sponsors shall ensure that any plans</u> which call for the attachment, anchoring, or bracing of temporary structural elements to existing historic buildings, structures, or objects (e.g., the stone facade of the historic Marina Seawall), <u>are reviewed for compliance with the Secretary's Standards by a qualified architectural historian, or in the alternative, a qualified architectural historian shall develop a proposed plan for such attachments setting forth appropriate techniques to govern and guide such activities that are consistent with the Secretary's Standards (the Temporary Structure Approach), which plan will be reviewed by the Department of City Planning for consistency with the Secretary's Standards before implementation.</u>

> Removal of any such attachments, anchors, or bracing shall be fully reversible and include post-removal stabilization of historic materials to prevent long-term degradation in condition. *Any unintended damage* to historic resources as a result of the AC34 event will be repaired by the project sponsors to its pre-event condition.

(DEIR p. 5.5-98 [underscore and italicized emphasis added].) The italicized text is an admission that damage may occur, due to lack of sufficient project detail that would allow evaluation of how "unintended damage" might occur or the imposition of conditions that would avoid the potential for such damage.

The underlined text above, regardless of which option the Project sponsor chooses, is based on an unproven assumption that consistency with "the Secretary's Standards" guarantees that impacts will be reduced to less-than-significant. Again, the EIR presents no evidence to support this assumption. Moreover, a review of the Secretary's Standards reveals that they simply do not contain performance standards that ensure impacts will be reduced to LTS. 11 [CP-9c]

4. Mitigation Measure M-CP-2: Inadvertent Discovery of Archeological Resources or Shipwrecks.

The DEIR defers the development of this mitigation measure until after Project approval but fails to specify any performance standards that the measures to be developed must achieve. Consequently, it is not possible to judge whether this mitigation measure will be effective in either substantially reducing significant impacts or reducing them to less-than-significant Therefore, it does not fall within the exceptions to the general rule against deferring the development of mitigation measures set forth in *Gentry*. 12 [CP-9e]

5. Mitigation Measure M-CP-6: Northeast Wharf Plaza Performance Criteria.

The DEIR defers the development of this mitigation measure until after Project approval. Despite its title, it fails to specify any performance standards that the measures to be developed must achieve. This measure requires determinations that the Project is "consistent with the Secretary's Standards with respect to the character-defining features and be compatible with the Embarcadero Historic District." As discussed above, the Secretary's Standards are not performance standards and "compatibility" is an aesthetic judgement, not an objective performance standard the achievement of which can be objectively measured. Consequently, it is not possible to judge whether this mitigation measure will be effective in either substantially reducing significant impacts or reducing them to less-than-significant. Therefore, it does not fall within the exceptions to the general rule against deferring the development of mitigation measures set forth in *Gentry*. 13 [CP-8]

6. Mitigation Measure M-LT-CP: Cultural Resources Mitigation Measures for Long-Term Development.

The Project's long-term development plans are entirely vague. All that is known is that they will comply with applicable zoning, including presumably, the zoning rules that allow variances! Thus is not entirely surprising to see a "shotgun" mitigation measure such as M-LT-CP.

In any case, the DEIR illegally defers the development of the specific mitigation measures described until after Project approval because it fails to specify any performance standards that the measures to be developed must achieve. This measure requires determinations that the Project is "consistent with the Secretary's Standards" and identifies many points of reference for a future analysis of specific mitigation measures to reduce any impacts of any eventual long-term project. But none of it consists of actual performance standards. Therefore, it does not fall within the exceptions to the general rule against deferring the development of mitigation measures set forth in *Gentry*. Examples include: 14 [IO-5, CP-10]

- "Port shall retain the services of qualified historic preservation expert to assist in producing design criteria to guide the form and character of long-term development of Piers 30-32 to be compatible with the character of the Embarcadero Historic District and consistent with the Secretary's Standards." (DEIR p. 1-92 and 1-93.) See discussion above.

- "To mitigate potential impacts on historic piers that may result from the future long-term development for which there are no design details available at this time, the Port will develop design and performance criteria to guide the proposed improvements so that the work would be consistent with Port Resolution 04-89, which requires review of proposed projects for consistency with the Secretary's Standards. These design criteria and performance measures will seek to address the character defining features of typical historic pier structures that may be impacted by the proposed work." (DEIR pp. 1-92 and 1-93.) This passage concedes that performance standards or criteria are not specified; they will be "developed" later.

B. TRANSPORTATION AND CIRCULATION.

1. AC2012 Impacts TR-1 through TR-12 (DEIR p. 5.6-73), TR 15 and TR 16 (DEIR p. 5.6-83); AC2013 Impacts TR-38 through TR-55 (DEIR p. 5.6-116), TR-58 (DEIR p. 5.6-121); and Mitigation Measure TR-1 (including TR-1a through TR-1d).

The DEIR defers the development of M-TR-1 until after Project approval. While the DEIR describes a number of possible components of M-TR-1a through M-TR-1d, none contain any performance standards that, if achieved, would reduce any of Impacts TR-1 through TR-12. Therefore, this deferral is unlawful. 15 [TR-14]

Also, other than the reference to these specific numbered mitigation measures, the DEIR's

vague reference to a so-called "People Plan" as mitigation for these impacts is meaningless because no such "People Plan" is included.

In addition, the impact assessments for Impacts TR-15, TR-16, TR-58 and TR-59 are too vague regarding the locations where impacts will be significant. 15 [TR-14] cont.

2. AC2012 Impact TR-17 (DEIR p. 5.6-86-89); AC2013 Impact TR-60 (DEIR p. 5.6-123) and Mitigation Measures TR-1b and TR 17 (DEIR p. 5.6-80-81, 90).

Comment II.C.1 above is incorporated by reference regarding M-TR-1b. The DEIR also unlawfully defers the development of M-TR-17 until after Project approval because it does not contain any performance standards that, if achieved, would reduce Impact TR-17. 16 [TR-14]

Also, as mentioned above, the DEIR's vague reference to a so-called "People Plan" as mitigation for these impacts is meaningless because no such "People Plan" is included.

3. AC2012 Impacts TR-18 through TR-25 (DEIR p. 5.6-91); AC2013 Impact TR-61 through 68 (DEIR p. 5.6-124); Mitigation Measures TR-18 through TR-25 (DEIR p. 5.6-91).

Because the implementation of these mitigation measures is uncertain, the DEIR correctly concludes that Impacts TR-18 through TR-23, respectively, remain significant. However, the DEIR's conclusion that these significant impacts are "unavoidable" violates CEQA's procedural requirements and is not supported by substantial evidence.

In order to find that a significant impact is "unavoidable," the DEIR must identify and discuss mitigation measures that may substantially reduce the impact and recommend adoption of all that do so and are feasible. Concluding that an impact is unavoidable before completing this informational procedure is an abuse of discretion. (*City of Marina v. Board of Trustees of California State University* (2006) 39 Cal.4th 341, 368.) The DEIR fails this test for several reasons. 17 [TR-14]

First, the DEIR identifies and discusses only one mitigation measure for each of these impacts, but does not provide any basis for concluding that there are no others worthy of discussion. (The agency, not the public, bears primary responsibility for identifying mitigation measures. (See 14 Cal. Code of Regs. § 15126.4.)

Second, other than the reference to these specific numbered mitigation measures, the DEIR's vague reference to a so-called "People Plan" as mitigation for these impacts is meaningless because no such "People Plan" is included.

Third, the development of these measures is illegally deferred. These measures contain no performance standards, there is no evidence that they will actually reduce impacts to LTS and there

is no evidence that it is not practicable to specify the measures now, before project approval. Moreover, because the Project Sponsor must "work with" other transit agencies to develop these mitigation measures, the City cannot commit to adding the increased transit service that these measures call for.

Fourth, the fact that the People Plan and the portions consisting of these measures are not yet developed reflects one simple fact: this DEIR fails to present an "accurate, finite and stable" project-level description or analysis because the City set itself an impossible deadline to get it done. Proper planning for this Project would have included taking the time before issuance of the DEIR to work out the details of the People Plan so the public would know whether implementing them is "feasible" and effective in substantially reducing the impact or reducing the impact to LTS.

Instead, the DEIR illegally short-circuits the process for identifying and developing mitigation measures based on a business deadline extrinsic to CEQA, with the result that significant information about the project, the impacted environment, and the actual feasibility of mitigation measures or alternatives is omitted. Then the DEIR jumps to a conclusion that these impacts are "unavoidable" based on the absence of this omitted information. This is like playing poker with a card up your sleeve. 17 [TR-14] cont.

At some point, the City must face the fact that this project, as currently described, may not be legally feasible because the process of obtaining a valid project description and environmental review cannot be lawfully completed in the time frame required by the Venue and Host Agreement. In any event, as stated at the beginning of this letter, the EIR cannot be certified as project-level CEQA review, because its disclosure and analysis at most only addresses programmatic issues, leaving the disclosure of project-level details and the development of alternatives or mitigation measures until after "project" approval in violation of CEQA's informed decisionmaking and public participation requirements.

a. Impacts of Mitigation Measures TR-18 through TR-25 (DEIR p. 5.6-97).

The DEIR claims that, because the air pollution impact of the Project as a whole is "significant and unavoidable," it is unnecessary to quantify the additional air pollution caused by mitigation measures TR-18 through TR-25, stating, for example:

> The extent of the increase in emissions and any offset reduction are not quantified in this EIR because the results would not change the outcome of the air quality analysis described in Section 5.8. As described in Section 5.8, Air Quality, all feasible mitigation measures to reduce air quality emissions are recommended to provide the maximum feasible reduction in emissions. Even with implementation of those measures, the air quality impacts associated with criteria pollutant and precursor emissions, as well as associated health risk impacts, would remain significant and unavoidable. The incremental air quality impacts associated with the 18 [AQ-9]

> transportation mitigation measure would therefore not affect the conclusions of the air quality impacts, and all identified air quality mitigation measure would remain the same.

(DEIR p. 5.6-97.)

This approach is unlawful. Just because the incremental air quality impacts of these mitigation measures do not change the conclusion that overall air quality impacts are "significant and unavoidable" does not mean that the DEIR can avoid the obligation to determine the magnitude (i.e, severity) of this incremental increase in pollutant emissions. In other words, the fact that the legal "conclusion" under CEQA that describes this impact (i.e., "significant and unavoidable") is "the same" does not mean that the "severity of the impact" is "the same." CEQA requires disclosure of the magnitude of the impacts before determining whether the impact is significant. 18 [AQ-9] cont.

It is elementary that the category of significant air quality impacts spans a virtually infinite continuum of severity. It is beyond absurd to suggest that all impacts above the threshold of significance are "the same" and therefore, the DEIR can omit information the public needs to judge how severe an significant impact will be. (*Santiago County Water Dist. v. County of Orange* (1981) 118 Cal.App.3d 818, 831 ["The EIR must contain facts and analysis, not just the bare conclusions of a public agency. An agency's opinion concerning matters within its expertise is of obvious value, but the public and decision-makers, for whom the EIR is prepared, should also have before them the basis for that opinion so as to enable them to make an independent, reasoned judgment....What is needed is some information about how adverse the adverse impact will be."].) Indeed, in order to make the finding required by Public Resources Code § 21081(b) (i.e., that overriding considerations justify the environmental harm), the agency must know how bad that harm will be.

4. AC2012 Impact TR-26 (DEIR p. 5.6-129); AC2113 Impact TR-69 (DEIR p. 5.6-129) and Mitigation Measure TR-1 and TR-26 (including TR-26a and 26b) (DEIR p. 5.6-102).

The DEIR defers the development of M-TR-1 and M-TR-26 until after Project approval. While the DEIR describes a number of possible components of M-TR-1a through M-TR-1d and M-TR-26a and M-TR-26b, none contain performance standards that, if achieved, would reduce Impacts TR-26 or TR-69. Therefore, this deferral is unlawful. 19 [TR-14]

Also, other than the reference to these specific numbered mitigation measures, the DEIR's vague reference to a so-called "People Plan" as mitigation for these impacts is meaningless because no such "People Plan" is included.

5. AC2012 Impact TR-27 (DEIR p. 5.6-103); AC2013 Impact TR-70 (DEIR p. 5.6-130) and Mitigation Measure TR-1d (DEIR p. 5.6-104). 20 [TR-14]

Comment II.C.1 above is incorporated by reference regarding M-TR-1d.

6. AC2012 Impact TR-37 (DEIR p. 5.6-113); AC2013 Impact TR-80 (DEIR p. 5.6-138) and Mitigation Measure TR-1 (DEIR p. 5.6-113 and 5.6-140). 20 [TR-14] cont.

Comment II.C.1 above is incorporated by reference regarding M-TR-1.

7. Impact TR-83 and Mitigation Measure I-TR-1 (DEIR pp. 1-46 and 1-47).

Deferral of the formulation and adoption of a future transportation management plan does not comply with CEQA because it does not require compliance with regulatory or performance criteria; therefore, it does not fall within the exceptions to the general rule against deferring the development of mitigation measures set forth in *Gentry*. 21 [TR-13]

8. Impact TR-85 and Mitigation Measure M-TR-85 and I-TR-85 (DEIR pp. 5.6-154).

The DEIR discusses only one mitigation measure for this significant impact and one "improvement" measure. Whether either of these measures will ever be implemented is uncertain. The DEIR needs to do more to identify mitigation measures that are feasible before jumping to the "significant and unavoidable with mitigation" ("SUM") conclusion. 22 [TR-13]

9. Impact LT-TR and Mitigation Measure LT-TR-85 (DEIR pp. 5.6-165).

The DEIR's discussion of the impacts on transportation and circulation of the Project's long-term development component is so general and without real substance that it is of no informative value whatsoever. Similarly, the description of LT-TR-85 reads like a excerpt from the table of contents of a transportation planning textbook - pure ideas without any commitments. 23 [IO-5]

Given the uselessness of this exercise, it seems clear that the only reason the DEIR attempts any impact or mitigation assessment at all is to serve the strategy discussed in Section I of this letter.

10. DEIR Section 5.6.3.7: Cumulative Transportation Impacts (DEIR p. 5.6-174).

The DEIR's discussion of the Project's cumulative transportation impacts is legally defective in several ways.

First, the DEIR's discussion of the Project's cumulative transportation impacts is arbitrarily limited to future impacts of the Cruise Terminal and long-term development components as of year 2035, and excludes cumulative transportation impacts of the AC34 race events in 2012 and 2013, stating: 24 [TR-2h]

> As indicated in Section 5.6.3.3, under "Approach to Impact Analysis Methodology," the future year 2035 was selected for analysis of the cumulative transportation

impacts. The 2035 cumulative analysis assesses the long-term impacts of the Cruise Terminal project in combination with other development. The AC34 project is not included in this cumulative analysis, with the exception of the long-term development rights under the Host Agreement, because none of the construction and operational impacts of the AC34 project would occur beyond 2013. Cumulative impacts associated with near-term project occurring during the construction and operational period of the AC34 project are discussed above under AC34 Events and Cruise Terminal impacts."

(See DEIR pp. 5.6-174 and 5.6-175.)

It should go without saying, but apparently it must be said, that the DEIR's discussion of the Project's cumulative effects cannot ignore its near-term cumulative effects! The last sentence of this quote suggests that the discussion of its near-term cumulative effects occurs elsewhere, but provides no page cross-reference. 24 [TR-2h] cont.

Second, the DEIR's discussion of the Project's cumulative transportation impacts is legally defective because it arbitrarily limits the geographic scope of the assessment. This error first appears in the DEIR's assessment of the Project's incremental, as opposed to cumulative, impacts. (See DEIR p. 5.6-48.) This assessment is flawed because its geographic scope excludes traffic impacts on the Bay Bridge and communities on the I-80 and I-580 corridors in Alameda and Contra Costa Counties.

With respect to the Bay Bridge, the DEIR says that people have adapted to "special events" by not driving on the bridge during these events so no further analysis is needed. (See DEIR pp. 5.6-48 and 5.6-49.) This conclusion is based on the data presented in Table 5.6-7 relating to three special events: Independence Day, Fleet Week weekend and the Giants 2010 World Series parade.

The DEIR simply assumes that driver response to the AC34 race events will be the same. But this assumption is unsupported and probably wrong. The first two events happen every year; therefore, it is unsurprising that drivers have adapted by staying off the bridge. The third event was a one day affair celebrating an event that has never happened before: a Giants' World Series win after their move to San Francisco. As such, the event was extremely well-publicized and well-anticipated. Therefore, again, it is unsurprising that drivers adapted by staying off the bridge. 25 [TR-2c]

In contrast, the AC34 race events will take place on up to 17 days in 2012 and up to 50 days in 2013. The DEIR estimates that total landside spectators in 2012 will be 184,000 per race day, with 170,000 of those in San Francisco; and in 2013 will be 316,000 per race day, with 292,000 of those in San Francisco. (DEIR p. 3-35, Table 3-4; p. 3-39, Table 3-7.) For anyone who tried to use BART or MUNI during the Giants 2010 World Series parade, these numbers boggle the mind. These transit services were brought to a standstill for many hours that day. Now imagine that happening on 17 days in 2012 and 50 days in 2013. It seems unlikely, to say the least, that drivers will be able to adapt on that many days as they did on one day for the Giants parade. In short, the

DEIR's discussion of the Project's incremental transportation impacts is flawed because its geographic scope is arbitrarily restricted.

This error continues in the DEIR's assessment of Project's cumulative transportation impacts, which states:

> The geographic context for the analysis of cumulative transportation impacts is the local roadway network along The Embarcadero in the vicinity of Piers 27-29, and transit operations within San Francisco. Proposed Cruise Terminal project impacts related to bicycle and pedestrian circulation, parking and loading supply and demand, and construction would be localized and site specific and would not contribute to impacts from other development and infrastructure projects within San Francisco.

(See DEIR p. 5.6-175.) This incredibly narrow geographic scope directly reflects the error discussed above, i.e., the arbitrary exclusion of near-term cumulative impacts to which the race events will contribute. 25 [TR-2c] cont.

C. NOISE AND VIBRATION.

1. Mitigation Measure M-NO-1a: Noise Controls During Construction.

This measure provides, in part:

The following practices shall be incorporated into the construction contract agreement documents to be implemented by the construction contractor:
- Provide enclosures and mufflers for stationary equipment, shroud or shield impact tools, and install barriers around particularly noisy activities at the construction sites so that the line of sight between the construction activities and nearby sensitive receptor locations is blocked;
- Use construction equipment with lower noise emission ratings <u>whenever possible</u>, particularly for air compressors;
- Provide sound-control devices on equipment no less effective than those provided by the manufacturer;
- Locate stationary equipment, material stockpiles, and vehicle staging areas <u>as far as practicable</u> from sensitive receptor locations;
- Prohibit <u>unnecessary</u> idling of internal combustion engines; and
- Require applicable construction-related vehicles and equipment to use designated truck routes to travel to and from the project sites.

(DEIR p. 1-50.)

This measure includes qualifiers, provisos and loopholes (see underlined text above) that 26 [NO-1]

render its effectiveness unknown so that it cannot form the basis for a determination that the impacts it mitigates will be reduced to LTS. 26 [NO-1] cont.

2. Mitigation Measure M-NO-2a: Shielding or Acoustical Enclosures for Generators at Piers 27-29 and Marina Green (DEIR p. 1-51).

This measure is too vague to be enforceable or to form the basis for a determination that the impacts it mitigates will be substantially reduced. It does not require the use of "Level 1 sound enclosures;" therefore, it is unknown whether the noise reduction standard of 5 dBA will be achieved. 27 [NO-2]

3. Mitigation Measure M-NO-2a: Mitigation Measure M-NO-2b: Noise Control Plan for Entertainment Venues.

This measure provides, in part:

> The AC34 project sponsors shall develop and implement a Noise Control Plan for operations at the proposed entertainment venues to reduce the severity of potential noise impacts from public address and/or amplified music. This Noise Control Plan shall contain the following elements:
> • The project sponsor shall comply with noise controls and restrictions in applicable entertainment permit requirements for designated AC34 events.
> • Where not otherwise addressed in City permits, amplification levels generally shall be established commensurate with the City's fixed residential interior noise limits of 50 dBA daytime (7:00 a.m. to 10:00 p.m.) and 45 dBA nighttime (10:00 p.m. to 7:00 a.m.).

(DEIR p. 1-51.)

Deferral of the formulation and adoption of a future Noise Control Plan containing this mitigation measure does not comply with CEQA because the DEIR does not provide enough detail in the project description to know which "events" will require permits and which will not.

This is an important distinction because the events that do not require permits are not required to comply with local noise control regulations. Instead, for them "amplification levels generally shall be established commensurate with the City's fixed residential interior noise limits." It is unclear what the terms "generally" and "commensurate" mean in this context. Therefore, the measure is uncertain, so it cannot form the basis for a determination that the impacts it mitigates will be substantially reduced. Nor it does not require compliance with regulatory or performance criteria; therefore, it does not fall within the exceptions to the general rule against deferring the development of mitigation measures set forth in *Gentry*. 28 [NO-3]

COM-280

4. Mitigation Measure M-NO-3.

This mitigation measure requires a future, post-approval study of potentially significant impacts of pile driving vibrations on historic structures, then the development of mitigation measures based on the results of the studies. As such, this mitigation is exactly like the measures in *Sundstrom* that the Court found were illegally deferred. (Gentry v. City of Murrieta, supra, 36 Cal.App.4th at p. 1396 ["one of the conditions which Gentry is challenging . . . requires McMillin to comply with any existing ordinance protecting the Stephens' kangaroo rat. However, it also provides that the City may request McMillin to obtain a biological report regarding the Stephens' kangaroo rat; in that event, McMillin must comply with any recommendations in the report. Condition 24.h is on all fours with the condition in *Sundstrom* which required the applicant to comply with any recommendations of a report that had yet to be performed. It improperly defers the formulation of mitigation."].) 29 [NO-1]

5. Mitigation Measure M-LT-NOa: Mitigation of Noise from Long-Term Development on Port Properties.

Again, the Project's long-term development plans are unknown. Therefore, critical information needed to assess whether this mitigation measure will be effective to reduce impacts to LTS, such as "where, when, what and how," is unknowable at this time.

Overall the DEIR illegally defers the development of the specific mitigation measures described within M-LT-NOa until after Project approval because it fails to specify any performance standards that the measures to be developed must achieve.

The subparts entitled "Noise Controls During Construction" and "Pile Driving Noise-Reducing Techniques and Muffling Devices" list a number of "practices." As with M-NO-1a above, this measure includes qualifiers (e.g., "whenever possible", "unnecessary", "when feasible") that render its effectiveness unknown - so it cannot form the basis for a determination that the impacts it mitigates will be reduced to LTS. 30 [IO-5, NO-8]

The subpart entitled "Pre-Construction Assessment to Minimize Structural Pile Driving Vibration Impacts to Adjacent Buildings and Structures and Vibration Monitoring" restates, but in a weaker form, Measure Mitigation Measure M-NO-3. Instead of providing "The project sponsors shall engage a qualified geotechnical engineer to conduct a pre-construction assessment ..." as in M-NO-3, this measure provides: "The project sponsors shall consult with the Port's Chief Harbor Engineer and if recommended by the Port engage a qualified geotechnical engineer to conduct a pre-construction assessment...." As a result, the public may or may not get, depending on the result of this consultation, a "Pre-Construction Assessment" that is on "all fours with the condition [struck down] in *Sundstrom*. (*Gentry, supra,* 36 Cal.App.4th at 1396.)

6. Mitigation Measure M-LT-NOb: Mitigation of Interior and Exterior Noise from New Residential Development of Seawall Lot 330.

This measure also requires a future, post-approval study of potentially significant impacts of pile driving vibrations on historic structures, then the development of mitigation measures based on the results of the studies. As such, this mitigation is exactly like the measures in *Sundstrom* that the Court found were illegally deferred. (*Gentry*, *supra*, 36 Cal.App.4th at 1396.) 31 [IO-5, NO-8]

D. AIR QUALITY

1. Impacts AQ-2 and AQ-3.

The DEIR determines the impacts relating to increased emissions of criteria air pollutants and their precursors – for which the Bay Area is in "non-attainment" – are significant based on thresholds of significance found in the Bay Area Air Quality Management's District's ("BAAQMD") CEQA Guidelines publication. Thus, for example, the DEIR calculates that the Project will cause an increase of 979 lbs/day in NOx emissions, which exceeds the BAAQMD threshold of significance of 54 lbs/day. (DEIR p. 5.8-33, Table 5.8-7.)

This determination implies that 54 of these 979 lbs is not significant. This implication underestimates the environmental harm this project will cause by assuming that a substantial portion of the increase in emissions of these criteria air pollutants is not "significant" in its own right. As a result the public is seriously mislead.

The assumption that the portions of the increases in emissions of these criteria air pollutants that are below the applicable BAAQMD thresholds of significance is not "significant" is not supported by substantial evidence because the BAAQMD thresholds of significance for all of the impacts within AQ-1 and AQ-2 are not supported by substantial evidence. While the BAAQMD CEQA Guidelines publication purports to include such substantial evidence for all criteria air pollutants for which the Bay Area is in non-attainment, it does not. Instead, BAAQMD CEQA Guidelines provide policy rationales for why it is a good idea to have thresholds of significance. Nowhere, however, does the document actually provide evidence for why any number of pounds per day below, for example, 54 for NOx or ROG, is not "cumulatively considerable." 32 [AQ-1]

The reason it does not present such evidence, of course, is that no such evidence exists, nor could it. The significance of a cumulative impact depends on the environmental setting in which it occurs, especially including the severity of existing environmental harm. (*CBE*, *supra*, 103 Cal.App.4th at 120 ["[T]he relevant question"... is not how the effect of the project at issue compares to the preexisting cumulative effect, but whether "any additional amount" of effect should be considered significant in the context of the existing cumulative effect. [footnote omitted] In the end, the greater the existing environmental problems are, the lower the threshold should be for treating a project's contribution to cumulative impacts as significant. [footnote omitted]"]; *Kings County Farm Bureau v. City of Hanford* (1990) 221 Cal.App.3d 692, 720-721.)

Here, the BAAQMD CEQA Guidelines present ample evidence that the Bay Area's air quality is seriously degraded and has been for a very long time. Therefore, the idea that a project could add, for example, 54 lbs of NOx to the air every day without considering that to be cumulatively considerable is absurd on its face. Rather than explain why this is not true, the BAAQMD CEQA Guidelines simply ignore the issue. 32 [AQ-1] cont.

The DEIR's use of the BAAQMD thresholds of significance is erroneous as a matter of law for several other reasons.[10] First, the EIR uses BAAQMD's thresholds of significance uncritically, without any factual analysis of its own, in violation of CEQA.[11] Second, this uncritical application of the BAAQMD's Thresholds of significance represents a failure of the City to exercise its independent judgement in preparing the EIR.[12] Just as disagreement from another agency does not deprive a lead agency of discretion under CEQA to judge whether substantial evidence supports its conclusions,[13] agreement from another agency does not relieve a lead agency of separately discharging its obligations under CEQA. 33 [AQ-1]

Third, the BAAQMD CEQA Guidelines do not provide any factual explanation as to why the 54 lbs. per day standard represents an appropriate thresholds of significance for judging the significance of project-level ozone pollution impacts. As a result, the DEIR also fails to include any such explanation, and is therefore inadequate as a matter of law.[14]

Fourth, it is well-settled that compliance with other regulatory standards cannot be used under CEQA as a basis for finding that a project's effects are insignificant, nor can it substitute for a fact-based analysis of those effects.[15] Fifth, the EIR cannot rely on Appendix G of the CEQA Guidelines for permission to use BAAQMD's thresholds of significance because the CEQA

---

[10] *Endangered Habitats League v County of Orange* (2005) 131 Cal.App.4th 777, 793 ("The use of an erroneous legal standard [for the threshold of significance in an EIR] is a failure to proceed in the manner required by law that requires reversal.").

[11] *Protect the Historic Amador Waterways v. Amador Water Agency, supra*, 116 Cal.App.4th 1099.

[12] *Friends of La Vina v. County of Los Angeles* (1991) 232 Cal.App.3d 1446.

[13] *California Native Plant Society v. City of Rancho Cordova* (2009) 172 Cal.App.4th 603, 626.

[14] *Santiago County Water Dist. v. County of Orange*, *supra*, 118 Cal.App.3d 818.

[15] See cases cited a footnote 7 above.

Guidelines cannot authorize a violation of CEQA itself.[16] 33 [AQ-1] cont.

2. Impact AQ-4 and Mitigation Measure M-AQ-4 (DEIR p. 5.8-32).

The DEIR states:

> Mitigation Measure M-AQ-4 (Emission Controls for Race-Sponsored Spectator Vessels) would reduce emissions of ROG, NOx, PM10, and PM2.5 from those presented in Table 5.8-7. However, this measure would only apply to commercial, race-sponsored vessels that would be under the contract authority of the Event Authority and could not be implemented on private vessels. Race sponsored spectator vessels would be regulated at the state and federal levels, rendering implementation of mitigation measures for emissions reductions from these vessels infeasible.

(DEIR p. 5.8-34.)

This text is incomprehensible. First it says that M-AQ-4 "would only apply to commercial, race-sponsored vessels that would be under the contract authority of the Event Authority" (emphasis added). Then in the next sentence it says that "Race sponsored spectator vessels would be regulated at the state and federal levels, rendering implementation of mitigation measures for emissions reductions from these vessels infeasible" (emphasis added). So which is it? Does M-AQ-4 apply to "Race sponsored spectator vessels" or is it infeasible? 34 [AQ-1]

The DEIR states:

> Should it be determined by the project sponsor that availability of vessels with Tier 3 or Tier 4 engines for use as race-sponsored spectator vessels renders this mitigation measure infeasible, this lack of availability must be demonstrated, to the satisfaction of the Environmental Review Officer, indicating that the project sponsor has complied with this mitigation measure to the extent feasible and why full compliance with the mitigation measure is infeasible.

(DEIR p. 5.8-34.)

The DEIR implies, by its omission of any information regarding the current local availability of vessels with Tier 3 or Tier 4 engines, that determining the Authority's ability to put such vessels under contract is currently unknowable. This implication is unwarranted and unsupported. Clearly 35 [AQ-5]

[16] *Laurel Heights Improvement Assn. v. Regents of University of California* (1988) 47 Cal.3d 376, 391 ("Courts should afford great weight to the Guidelines except when a provision is clearly unauthorized or erroneous under CEQA.").

the Authority will need to gather this information after Project approval to comply with this mitigation measure. Once again, it appears that the omission of this information is simply the result of the premature issuance of this DEIR, not to any intrinsic problem with gathering this information. The lead agency "must use its best efforts to find out and disclose all that it reasonably can." (CEQA Guideline 15144.) 35 [AQ-5]

The DEIR states:

> For the purposes of this mitigation measure, "feasibility" refers to the availability of commercial ships that meet Tier 3 and Tier 4 standards that are available for lease to the project sponsor. It should be noted that it is likely that ships used for race-sponsored spectator vessels would be limited to those locally available within the San Francisco Bay Area so as to avoid additional emission impacts associated with bringing distant berthed vessels into use. Therefore, this mitigation measure would likely have limited feasibility.

(DEIR p. 5.8-35.)

This limitation on M-AQ-4 is unwarranted for several reasons. First, Since the DEIR's self-defined "feasibility" problem with this measure is the potential lack of locally available vessels with Tier 3 and 4 engines, the limitation to "locally available" vessels is nonsensical. The purpose of this measure is to reduce air pollution by requiring that Authority contract vessels that have Tier 3 or 4 engines, not to bolster the local economy by restricting these contracts to local vessels.

Second, CEQA defines "feasible" to mean: "capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, social, and technological factors." (Pub. Resources Code § 21061.1.) Viewed in this broader light, the limitation to "locally available" vessels is unauthorized. The DEIR cannot substitute its own definition of "feasible" for CEQA's definition in order to defeat the feasibility of a mitigation measure. 36 [AQ-6]

E. WIND

1. Mitigation Measure M-WI-2: Warning Signs, Limiting Access and/or Design Features on the Eastern Aprons of Piers 27-29 During Hazardous Wind Events.

The DEIR's discussion of this mitigation is flawed for two reasons.

First, the DEIR defers the development of the mitigation measures that M-WI-2 will eventually consist of until after Project approval, but fails to specify any performance standards that the measures to be developed must achieve. Consequently, it is not possible to judge whether this mitigation measure will be effective in either substantially reducing significant impacts or reducing 37 [WS-6]

them to less-than-significant Therefore, it does not fall within the exceptions to the general rule against deferring the development of mitigation measures set forth in *Gentry*.

Second, each of the examples of "design features" listed in the mitigation measure could adversely impact historic resources. CEQA requires environmental review of mitigation measures that, themselves, may have an impact, such as these the specific design features. The DEIR does not provide that analysis, but must. 37 [WS-6] cont.

F. RECREATION

1. Impact RE-1 and Mitigation Measure M-RE-1 (DEIR pp. 5.11–37 - 5.11-43).

This measure addresses the impacts that the America's Cup facilities and events could have on recreational facilities, at an unspecified number of unidentified locations throughout the Bay Area, by increasing the use thereof and thereby physically degrading those facilities. The DEIR concludes that, with implementation of mitigation measures, the impact will be less than significant.

However, rather than present evidence supporting the conclusion that compliance with M-RE-1 will reduce any effect of RE-1 to less than significant, the DEIR simply assumes the conclusion that it is supposed to prove. As explained above, this violates CEQA.

Moreover, the DEIR defers the development of M-RE-1 until after Project approval. Specifically, the DEIR relies on the "Parks Event Operations Plan" and "agency coordination" as mitigation for the RE-1 impacts to recreational resources. These "plans" are meaningless because no such plans are included in the DEIR. While the DEIR describes a number of possible components of these "plans", including Identification of Recreational Resource Areas of Special Concern, Crowd Control, and Post-Event Repair, only one of these components contains a performance standard, which states: "the project sponsor shall ensure that recreational resource areas of special concern are returned to their previously identified pre-project condition to the extent damaged by event activities[.]" There is no evidence that this standard is achievable and no evidence that it is impracticable to specify the measures to be implemented to achieve this performance standard prior to project approval. Therefore, the deferral of development and adoption of mitigation measures is unlawful. 38 [RE-7]

2. Cumulative Impacts (DEIR p. 5.11-45).

The analysis of the cumulative impacts on recreational resources is inadequate, as it concludes that the Project will have no significant impact without providing any analysis or evidence to support that conclusion. Rather, the DEIR states, essentially, that the Project will not have a significant cumulative impact on recreational resources because: 1) the recreational resources of the central Bay Area region are primarily urban, and therefore designed to withstand substantial use; and 2) the many non-urban recreational resources that exist in the greater Bay Area region are 39 [RE-9]

sufficient to accommodate increased use. As explained above, CEQA does not permit the DEIR to simply assume the conclusions that it is supposed to prove. Here, the conclusion of no significant impact is entirely unsupported by either analysis or evidence, in violation of CEQA. 39 [RE-9] cont.

G. PUBLIC SERVICES

1. Cumulative Impacts (DEIR p. 5.13-28).

The DEIR dismisses any potential cumulative impacts to public services by artificially excluding near-term cumulative impacts during 2012 and 2013. Specifically, the DEIR concludes that, because the public service demands resulting from the Project would be limited to several months in 2012 and 2013, the AC34 2012 and 2013 impacts to public services would not be significant.

Moreover, the DEIR applies an entirely arbitrary and unsupported threshold of significance, in violation of CEQA, in determining whether the impact of the Project on public services would be cumulatively significant. An EIR may not apply a threshold of significance in a manner that precludes consideration of other substantial evidence demonstrating that there may be a significant effect on the environment. (*Mejia v. City of Los Angeles* (2005) 130 Cal. App. 4th 322, 347.) The DEIR concludes that impacts to public services will only be significant if the increase demand would make a cumulatively considerable contribution to the public service demands of other projects in the area resulting in the requirement of construction of new or physically altered government facilities (e.g. fire stations) and that that development, in turn, would impact the environment. The DEIR provides no support for this arbitrary threshold, and does not consider any other potential impact due to increased demand for public services, such as the impact of drawing public service personnel away from other areas or resources to accommodate the Project's increased demand (e.g., drawing on fire protection personnel from other areas, potentially resulting in greater fire damage elsewhere). 40 [PS-3, PS-6]

H. BIOLOGICAL RESOURCES

1. The DEIR Improperly Deferred Mitigation of And, in Some Instances, Entirely Failed to Mitigate Impacts To Upland Biological Resources.

As noted above, it is well established that "reliance on tentative plans for future mitigation after completion of the CEQA process significantly undermines CEQA's goals of full disclosure and informed decisionmaking...." (*CBE v. Richmond, supra,* 184 Cal.App.4th at p. 92.) In *CBE v. Richmond*, the court overturned an EIR that merely proposed a generalized goal of mitigation and then set out a handful of "cursorily described mitigation measures for future consideration that might serve to mitigate" the project's impacts. (*Id.* at p. 92.) This DEIR suffers from the same deficiency with respect to numerous biological impacts. 41 [IO-4c]

2. Mitigation Measure M-BI-1e: Restrictions on Fireworks and Night Lighting.

The DEIR generally recognizes that the AC34 events and venues "would have potentially significant impacts, at the Crissy Field/Crissy Marsh areas for the plover." (DEIR p. 5.14-30.)[17] Mitigation Measure M-BI-1e sets forth a generalized goal limiting fireworks and cannon fire to mitigate harassment to the plover. (DEIR p. 5.14-32.) Rather than setting forth clearly-defined limits and practices, however, the DEIR merely states "restrictions are likely to limit where such activities are staged, or stipulate maximum allowable noise (decibels) at the Crissy Field WPA." (*Id.*)

As in *CBE v. Richmond*, this generalized mitigation goal and superficially-described potential mitigation measures leave the public and decision-makers in the dark about how and to what extent these harassing activities will be limited. Further, in light of the failure to establish clear and enforceable mitigation measures, combined with the absence of any information regarding *how* the plover will be affected in the first instance, there is no basis upon which to conclude that this impact will be reduced to a level of insignificance. 42 [BIU-5a]

Similarly, it is apparent from Mitigation Measure M-BI-1e that night lighting will significantly impact the plover, as it provides "mitigation" for that impact. It states: "[w]here exterior lights are to be left on at night, the AC34 project sponsor shall install fully shielded and downward cast lights to contain and direct light away from habitat, the sky, and Bay waters." (DEIR p. 5.14-32.) However, there is no discussion as to how the plover will be impacted by night lighting and whether the shielding and strategically directed light will be sufficient to mitigate the impacts.

3. Mitigation Measures M-BI-1a, M-BI-1b, and M-BI-1c.

The DEIR sets forth a generalized goal of mitigating spectator-related impacts to the Mission Blue Butterfly (M-BI-1a), "Listed and Other Special Status Plant Areas" (M-BI-1b), and the Crissy Beach Wildlife Protection Area (M-BI-1c) through habitat avoidance. (DEIR pp. 5.14-30 31.) However, rather than setting forth specific mitigation measures, the DEIR merely requires the project sponsor to coordinate with the National Park Service to "develop a strategy" for avoiding such habitat that includes an "appropriate combination" of potential measures. (*Id.*) The potential mitigation measures include signage, fencing, closures, and resource monitors. (*Id.*) 43 [BIU-5a]

"[P]reparing a menu of potential mitigation measures, with the specific measures to be

[17] It does not, however, explain in any meaningful detail what those impacts are. The impacts analysis, for example, fails to discuss the fact that the plover may be subject to harassment by fireworks and cannon fire. (DEIR pp. 5.14-26–30; 5.14-32 [impact mentioned for the first time in Mitigation Measure M-BI-1e].) Likewise, the DEIR does not explain the effects of such harassment on the affected plover populations.

selected by [the project sponsor] and approved . . . after Project approval" is a plain violation of CEQA's mitigation mandate. (*CBE, supra*, 184 Cal.App.4th at 92.) Where several measures are available to mitigate an impact, the EIR must discuss each, along with the basis for selecting a particular measure. (Guidelines, § 15126.4(a)(1)(B).) Also, where mitigation measures are within the jurisdiction of another agency, the responsible agency must submit mitigation measures or performance standards to the lead agency "[p]rior to the close of public review period." (Pub. Res. Code, § 21081.6, subd. (c).) The development of mitigation measures, "is not meant to be a bilateral negotiation . . . after project approval, but rather, an open process that also involves other interested agencies and the public." (*CBE, supra*, 184 Cal.App.4th at 93.) The DEIR improperly defers development of the mitigation plan and excludes the public from involvement therein. 43 [BIU-5a] cont.

Moreover, there is no evidence that merely directing spectators away from occupied or sensitive habitat will mitigate *indirect* spectator impacts such as "noise generated by spectators, their movement into and out of the spectator areas (on land or by boat), and their food trash and litter, which could affect resident wildlife by attracting disturbance-tolerant species." (DEIR pp. 5.14-28–29.) Thus, not only is the mitigation inadequate for direct impacts, the City entirely failed to mitigate indirect impacts to the butterfly, plover, and any other species that may be so affected.

4. Impact BI-4 and Mitigation Measure M-BI-4e: The DEIR Fails to Adequately Analyze and Mitigate Impacts to Nesting Bird Colonies on Alcatraz.

The DEIR states that the Project's spectator activities may significantly impact breeding colonies of birds on Alcatraz, including two species of cormorants and the special status black-crowned night-heron and snowy egret. (DEIR p. 5.14-38.) The DEIR fails, however, to (1) study and disclose the nature and extent of the impacts to these species and (2) ensure that the impacts will be mitigated. It states: 44 [BIU-4]

> Colonial nesting species are especially vulnerable as one major disturbance event risks complete breeding season failure for the entire colony. These species occupy large areas of the island, including the coastal cliffs as well as other parts of the island that are closed to the public during the nesting season.
> [...]
> A 2007 study examined the effect of a Special Park Uses-permitted event held in 2007 in the Laundry Building on Alcatraz. The event was monitored for effects on cormorants, and the authors concluded that the cormorant population on Alcatraz experienced lasting effects from the event. The scale of disturbance that was monitored is assumed to be not substantially different from AC34 events. The impacts are thus *assumed* to be potentially significant but, through the implementation of Mitigation Measure M-BI-4e (Protection for Colonial Breeding Birds on Alcatraz), *could be* reduced to less than significant.

(*Id.*) Nothing in the DEIR explains what kind of event constitutes a "major disturbance" resulting 45 [BIU-4]

in complete breeding failure, what kind of "lasting effects" could occur, or how such impacts could be avoided. Instead, as indicated by the italicized language, the DEIR merely assumes that some significant impact will occur and hedges on whether the impact will be mitigated. This does not provide "a sufficient degree of analysis to provide decision makers with information which enables them to make a decision which intelligently takes account of environmental consequences." (*Santiago County Water Dist. v. County of Orange*, *supra*, 118 Cal.App.3d at 831, citing Guidelines, § 15150.) The EIR must provide "some information about how adverse the adverse impact will be." (*Id.*) 45 [BIU-4] cont.

Mitigation Measure M-BI-4e is likewise defective. It provides:

> The AC34 project sponsor shall allow no event-related public visitation, special events, or construction activities to be carried out near the western cliffs used by breeding seabirds. NPS would likely require these or similar measures pursuant to their mission and obligations under federal law. *If required by NPS*, the project sponsor shall install durable visual barriers, such as shade cloth fastened to 2-by-4-inch welded mesh, prior to arrival of birds for pre-nesting (February 1). All such areas will be considered "closed areas" with signs, similar to those described in Mitigation Measure M-BI-1a (Protecting Sensitive Areas for Mission Blue Butterfly), explaining the presence of the seabird colony and why it is important to stay behind barricades and view from a distance.

(DEIR p. 5.14-39.) Because the DEIR fails to disclose what kind of activity could cause a catastrophic disturbance, there is no basis upon which to conclude that limiting public visitation, special events, or construction "near the western cliffs" will be sufficient to protect the colonies. The remainder of M-BI-4e does not require anything of the project sponsor—it merely states that NPS *could* require closures or signage. 46 [BIU-5a]

5. Impact BI-1: The DEIR Fails to Adequately Analyze Impacts to Nesting Raptors.

The DEIR discloses that the Presidio's historic forest offers nesting and roosting habitat for special status raptor species, including the Great horned owl, Sharp-shinned hawk, Red-shouldered hawk, Red-tailed hawk, Northern harrier, and American kestrel. (DEIR p. 5.14-16; 5.14-29.) This area will be used and modified for AC34 events. (DEIR p. 5.14-29.) 47 [BIU-5a]

The DEIR concludes that impacts to these species will be less than significant on the improper grounds that: (1) the species are already subject to a high level of disturbance (citing the Doyle Drive Phase II Construction Project); and (2) the forest offers little by way of viewing sites. (*Id.*)

With respect to the former, the fact that sensitive nesting species are already heavily impacted provides no support for a conclusion that this Project's use and modification of the forest

will not also significantly impact the species. To the contrary, the existing high level of disturbance evidences a significant cumulative impact. The "relevant question" in determining the significance of a project's contribution to a cumulative impact "is not how the effect of the project at issue compares to the preexisting cumulative effect, but whether 'any additional amount' of effect should be considered significant in the context of the existing cumulative effect." (*CBE*, *supra*, 103 Cal.App.4th at 120.) Indeed, "the greater the existing environmental problems are, the lower the threshold should be for treating a project's contribution to cumulative impacts as significant." (*Id.*) 47 [BIU-5a] cont.

Additionally, the DEIR reveals that the Presidio will used extensively for AC34 events, including 11,450 visitors to the Presidio and Crissy Field per peak weekday and 77,000 on peak weekend days in 2012. (DEIR p. 5.6-57; see also Figure 5.6-1B [indicating extensive use of Presidio for parking].) These figures increase to 12,800 visitors per peak weekday and 82,000 on peak weekend days in 2013. (*Id.*) Thus, the Project, through increases in visitation and use of the forest for parking or accessing viewing areas, poses a potentially significant impact to nesting raptors even if the "forest offers little by way of viewing sites."

The City must mitigate these impacts.

6. Impact BI-14; Mitigation Measure M-BI-12: The DEIR Fails to Adequately Mitigate Impacts to Marine Mammals.

The DEIR discloses that increased spectator traffic caused by the Project may significantly impact marine mammals:

> [The] events would attract large numbers of spectators on boats with approximately 2,280 boats anticipated during the average peak events in 2013. As a result of this increase in vessel traffic all concentrated in the western portion of Central Bay, the potential for marine mammal strikes or other harm or harassment to occur would be potentially significant. 48 [BIM-3a]

(DEIR p. 5.14-106.) Pacific harbor seals are at high risk year-round; harbor porpoises and California sea lions are at the highest risk in the winter, and humpback whales, while at risk, are unlikely to be present in the Central Bay during race activities. (*Id.*) The DEIR concludes, without explanation, that "Implementation of Mitigation Measure M-BI-12 (Visiting Mariners information) in conjunction with the Course Marshal and race course personnel informing spectator boats of the presence of a whale within the race course would reduce possible collisions with and harassment of marine mammals by spectator boats to less than significant." (*Id.*)

There is no evidence in the DEIR to support the City's conclusion that the Visiting Mariners Information and whale presence warnings would reduce collision-related impacts to Pacific harbor seals, harbor porpoises, and California sea lions to less than significant. As an initial matter, warnings about the presence of whales does not protect these mammals. Further, the required contents of the Visiting Mariners Information is limited to information on the location of eelgrass

beds, marinas and safe anchoring locations, waste handling, invasive species, vessel traffic during Project activities, regulations prohibiting harassment of marine mammals, nesting bird buffer zones, clean boating practices, and plastic bag littering. (DEIR p. 5.14-102.) The Visiting Mariners Information does not include any information about spotting and avoiding collisions with marine mammals and the DEIR does not explain how the information contained therein would reduce the collision risk. 48 [BIM-3a] cont.

The DEIR must identify, analyze, and disclose feasible mitigation measures for this impact.

7. Impact BI-15: The DEIR Fails To Adequately Analyze Conflicts With Policies or Ordinances Protecting Marine or Estuarine Resources.

The DEIR states that "AC34 Port facilities improvements and 2012 and 2013 races could result in potentially significant impacts on marine biological resources which would conflict with applicable local policies or ordinances protecting marine or estuarine biological resources." (DEIR p. 5.14-103.) It does not, however, identify the policies or ordinances with which it conflicts or explain the nature of the conflicts. (*Ibid.*) Accordingly, the DEIR fails to provide "a sufficient degree of analysis to provide decision makers with information which enables them to make a decision which intelligently takes account of environmental consequences." (*Santiago County Water Dist., supra,* 118 Cal.App.3d at 831, citing Guidelines, § 15150.) 49 [BIM-2a]

Further, there is no evidence that implementation of the mitigation measures listed in the DEIR will reduce the undisclosed conflicts to a level of insignificance.

I. GEOLOGY AND SOILS

1. Impacts GE-2, GE-3, GE-8, GE-9, and GE-12, and Mitigation Measure M-GE-2 (DEIR pp. 5.15-16 - 5.15-28).

The discussions of Impacts GE-2, GE-3, GE-8, GE-9, and GE-12, and Mitigation Measure M-GE address the potential impacts from construction and operation of both the America's Cup facilities and events and the James R. Herman Cruise Terminal and Northeast Wharf Plaza related to groundshaking, liquefaction, lateral spreading, or earthquake-induced settlement, as well as the fact that the Cruise Terminal and Wharf Plaza could be located on a geologic unit that is unstable or could become unstable as a result of the project. The DEIR finds that the Project may have a significant impact at Piers 27-29 and 30-32 because structural and seismic retrofitting is necessary at those piers, and a site-specific geotechnical investigation has not yet been conducted to inform the engineering requirements necessary to comply with the Port of San Francisco Building Code in making the necessary improvements to those piers. For each potentially significant impact, the DEIR states that, with implementation of Mitigation Measure M-GE-2, and compliance with the San Francisco Building Code, the severity of the impact will be reduced to a level that is less than significant.

Mitigation Measure M-GE-2 requires the project sponsor to conduct a site-specific geotechnical investigation, and make recommendations based thereon to be included in the project design, for piers requiring upgrading prior to permitting any new construction or reuse that would increase the load of the structure.

In other words, the potentially significant impact is the fact that seismic retrofits to several piers will be incorporated into the project design, but no investigation has been performed to provide the parameters of that retrofit, and the *mitigation* for that impact is to perform the necessary investigation.

This is illogical and amounts to a failure to provide an accurate project description, disguised as a discussion of potentially significant impacts. The fact that no geotechnical investigation has yet been performed to determine the parameters of the seismic retrofit to be incorporated into the project design cannot be considered an "impact." Rather, it is a gap in the project design itself. The fact that this important aspect of the project design has not yet even been developed, let alone incorporated into the Project and analyzed in the DEIR, represents a clear failure to present, in the DEIR, an "accurate, stable and finite project description [which] is the sine qua non of an informative and legally sufficient EIR." (*County of Inyo, supra,* 124 Cal.App.3d at 9.) 50 [GE-1]

Moreover, the purported mitigation measure described in Mitigation Measure M-GE-2 is not, in fact, a mitigation measure, but rather a plan, at some point in the future, to conduct a study that will then assist the project sponsor to design measures that may alleviate potential seismic and geological risks associated with the Project. As explained above, EIRs may not rely on mitigation measures to be developed after project approval unless: 1) practical considerations prohibit devising such measures early in the planning process; *and* 2) the agency commits to satisfying specific performance criteria through the mitigation measures to be developed later. Here, there is no evidence in the EIR that conducting the necessary geotechnical study prior to project approval is not possible or practicable.

In addition, Mitigation Measure M-GE-2 does not commit the Project to meeting any sort of performance criteria for seismic and geological safety in retrofitting Piers 27-29 and 30-32. In the discussion of the potentially significant impacts, the DEIR states that part of the purpose of the geotechnical investigation will be to inform the engineering requirements for the retrofit projects in order to comply with the Port of San Francisco Building Code. However, even if the DEIR commits the agency to ensuring that the retrofit projects comply with the Port of San Francisco Building Code, and commitment to compliance with that Code represents a commitment to specific performance standards, both dubious propositions, the DEIR contains no evidence or analysis as to whether commitment to that Code will, in fact, reduce any potential seismic or geological impacts to less than significant, as required by CEQA. Thus, the DEIR violates CEQA by deferring development of, and commitment to, specific mitigation measures.

2. Impact GE-6 and Mitigation Measure M-GE-6 (DEIR pp. 5.15-22 - 5.15-24).

Impact GE-6 discusses the fact that certain locations along the San Francisco waterfront with structural concerns could receive a higher volume of visitors than normal during the America's Cup events, which could cause instability of those structures. Mitigation Measure M-GE-6 requires adequate signage and controlled or restricted public access to these areas during race events. M-GE-6 leaves the exact identities of the unstable structures and access control measures to be determined at a later date.

The failure to identify the unstable structures that may be affected represents a failure to describe the affected environmental setting of the Project, in violation of CEQA.

Also, as explained above, under CEQA, development and analysis of, and commitment to, specific mitigation measures may only be deferred until after project approval where prior development is impracticable and there is a commitment to specific performance standards for the mitigation. There is no evidence in the DEIR of either factor. Thus, deferral of mitigation here violates CEQA. 51 [GE-1]

3. Impact LT-GE and Mitigation Measure M-LT-GE (DEIR pp. 5.15-29 - 5.15-30.)

The DEIR provides a brief, entirely vague discussion about the fact that the Host Agreement provides the Event Authority with certain long-term development rights, but at this point what development that will entail is unknown. The DEIR concludes that, while any development involves seismic and geological risk, any potential impact will be mitigated to less than significant by doing a geotechnical study and implementing its recommendations.

The legal errors in this approach are deep, numerous and simple. Without an adequate project description, the DEIR cannot assess or identify actual, specific significant impacts. Without an adequate identification of actual, specific significant impacts, the DEIR cannot discuss and identify actual, specific feasible mitigation measures that will be effective in substantially reducing or reducing to LTS those significant impacts. In addition, this is exactly the type of deferred mitigation disallowed in *Sundstrom* and *Gentry*. In short, this section of the DEIR is uninformative and meaningless. 52 [IO-5]

J. WATER QUALITY AND HYDROLOGY

1. Impact HY-1 and Mitigation Measure HY-1: Water Quality Best Management Practices. 53 [HY-5]

As noted in the comment letter from San Francisco Baykeeper, many components of this mitigation measure remain unspecified until they are to be developed after project approval. For

example, the "Spill Prevention Control and Countermeasure (SPCC) Plan" is required to address "emergency cleanup of any hazardous material" but does not specify either the measures or a range of measures that will be employed for this purpose.

Similarly, the "Materials Management Disposal Plan (MMDP)" is required to address "Measures to ensure that fresh cement or concrete shall not be allowed to enter San Francisco Bay" but does not specify either the measures or a range of measures that will be employed for this purpose.

These measures also lack enforceable performance standards. Thus, deferring the development of these measures does not comply with the standards set forth in *Gentry*. 53 [HY-5] cont.

2. Impact LT-HY and Mitigation Measure LT-HY. 54 [HY-5]

For the most part, this measure restates M-HY-1. My comments on M-HY-1 are incorporated here by reference.

3. Cumulative Water Quality Impacts (DEIR p. 5.16-86).

The DEIR's discussion of the cumulative impacts of both the AC34 race events and the Cruise Terminal components of the Project reflects a misapplication of the concept and definition of cumulative impacts. The DEIR assumes that because the incremental impacts of these Project components will be reduced to LTS or minimized by the implementation of M-HY-1, that the cumulative impacts of these Project components will be reduced to LTS. This view of cumulative impacts has been rejected in many Court of Appeal decisions. (See e.g., *CBE, supra*, 103 Cal.App.4th 98; *EPIC v. Johnson* (1985) 170 Cal.App.3d 604, 624-625 ["'the Department has taken the tact [sic] that if the adverse effects are minimized to the maximum on each individual operation, then the total effect in the surrounding area will also be minimized to an acceptable level." This statement is at odds with the concept of cumulative effect, which assesses cumulative damage as a whole greater than the sum of its parts."].) The DEIR fails to reflect the fact that, even where a Project's incremental effect is LTS, its cumulative effect may be "considerable" and, therefore, significant. 55 [HY-15]

K. HAZARDS AND HAZARDOUS MATERIALS

1. Impact HZ-1 and Mitigation Measure M-BI-12 (DEIR pp. 5.17-10 - 5.17-14; 5.14-100 - 5.14-103).

Impact HZ-1 addresses the potential consequences of the routine transport, use, or disposal of hazardous materials related to the Project. The DEIR finds that the increased presence of race, spectator and support/media vessels in the San Francisco Bay associated with the Project may result in a potentially significant impact due to release of hazardous materials from those vessels.

However, the DEIR finds that, with the implementation of Mitigation Measure M-BI-12, that impact would be less than significant. Mitigation Measure M-BI-12 provides parameters for developing and disseminating information to boaters and marinas about environmentally sound boating practices. It does not, however, provide any analysis, performance standards, or guarantees that boats will not, in fact, discharge hazardous materials. Nor is it even logical to assume that dissemination of information on environmentally-friendly boating practices equates with actual prevention of harmful ones. Thus, once again, rather than providing any analysis or evidence that adherence to M-BI-12 will result in less than significant impacts due to release of hazardous materials, the DEIR simply *assumes* that the result will be a less than significant impact, in violation of CEQA. 56 [HZ-4]

2. Impacts HZ-3 and HZ-7, and Mitigation Measure M-HZ-3 (DEIR pp. 5.17-16 - 5.17-18; 5.21-23).

The DEIR concludes that, with the implementation of Mitigation Measure M-HZ-3, potential impacts from damage to hazardous building materials at Piers 27 and 29, such as PCBs and lead paint, will be less than significant. Measure M-HZ-3 simply requires that the project sponsor survey any such materials and dispose of them "properly" according to federal, state, and local laws and regulations.

The reliance on vague terminology and references to non-specific laws and regulations to claim that Impacts HZ-3 and HZ-7 will be less than significant once again represents a failure of the DEIR to adhere to CEQA's information disclosure requirements. First, the DEIR's failure to describe what potential hazards actually exist and may be disturbed by Project-related construction activities at Piers 27 and 29 is a failure to adequately describe the Project's environmental setting. Second, failure to identify in the DEIR what specific methods of removal and disposal of hazardous materials are "proper" and precisely which abatement methods mandated by which federal, state and local laws and regulations are to be utilized, and failure to specifically require adherence to those methods, constitutes a deferral of development of specific mitigation measures, in violation of CEQA. Third, even if Mitigation Measure M-HZ-3 presented concrete, enforceable methodologies for removal and disposal of hazardous materials, the DEIR simply assumes that implementation of Mitigation Measure M-HZ-3 will result in less than significant impacts without providing analysis or evidence to support that assumption. CEQA requires more. 57 [HZ-1e]

3. Impact LT-HZ and Mitigation Measure M-LT-HZ (DEIR pp. 5.17-24 - 5.17-25).

The DEIR provides a brief, vague discussion about the fact that the Host Agreement provides the Event Authority with certain long-term development rights, but at this point what development that will entail is unknown. The DEIR concludes that, while any development involves risk with respect to exposure to or release of hazardous materials due to building demolition or removal of creosote-treated piles or structures, any potential impact will be mitigated to less than significant by surveying for, and properly removing and disposing of, those materials prior to demolition or 58 [HZ-1e]

renovation.

Just as explained above with respect to Geology and Soils, the legal errors in this approach, again, are deep, numerous and simple. Without an adequate project description, the DEIR cannot assess or identify actual, specific significant impacts. Without an adequate identification of actual, specific significant impacts, the DEIR cannot discuss and identify actual, specific feasible mitigation measures that will be effective in substantially reducing or reducing to LTS those significant impacts. In addition, this is exactly the type of deferred mitigation disallowed in *Sundstrom* and *Gentry*. In short, this section of the DEIR is uninformative and meaningless. 58 [HZ-1e] cont.

4. Cumulative Impacts (DEIR p. 5.17-26).

The DEIR artificially limits its analysis to effects in the project area and immediate vicinity in order to determine that the impacts would be less than significant. As explained above, an EIR may not apply a threshold of significance in a manner that precludes consideration of other substantial evidence demonstrating that there may be a significant effect on the environment. (*Mejia v. City of Los Angeles*, *supra*, 130 Cal. App. 4th at 347.) Elsewhere the DEIR discusses the potential release of hazardous materials into the waters of the San Francisco Bay as a result of the Project. It is simply a fact that the waters of the Bay do not confine themselves to the narrow geographic scope of the DEIR's assessment. Therefore, this artificial limitation on the geographic scope of the cumulative impacts of the Project to hazardous materials is unsupportable. 59 [HZ-5]

In addition, the DEIR's cumulative impacts analysis once again relies on Mitigation Measure M-HZ-3 in determining that the cumulative impacts of the Project will be less than significant. As explained above, Mitigation Measure M-HZ-3 is inadequate to support the conclusion that the Project's impacts will be less than significant; comment II.K.2 is incorporated herein by reference.

L. GREENHOUSE GASES AND CLIMATE CHANGE

1. The DEIR Applied an Improper Threshold of Significance ("TOS") for Climate Change Impacts.

The AC34 Events and Cruise Terminal Projects will contribute to the cumulative effects of climate change by increasing greenhouse gas ("GHG") emissions in numerous ways, as follows:

1. America's Cup team bases will use hazardous materials such as fuels, oils, alkaline and acidic solutions, rust inhibitors, and anti-fouling paints for boat fabrication, resulting in increased emissions of hydrofluorocarbons, perfluorocarbons, and sulfur hexafluoride.

2. Over the two-year course of the event, America's Cup will generate new vehicle and boat trips causing up to 334,000 visitors per day during an average peak race day.

3. America's Cup will cause increased indirect emissions from electricity providers; energy

required to pump, treat, and convey water; and landfill operations by generating increased energy use, water use and wastewater treatment, and solid waste disposal.

4. Construction activities – including temporary facilities at Marina Green, Aquatic Park, Crissy Field, Fort Mason, Alcatraz, Cavallo Point, Seawall Lot 330, Piers 19, 23, 26, 28 and 80, and various open water areas, and permanent facilities at Piers 30/32 and Phase 1 of the Cruise Terminal at Piers 27/29 – will generate GHG emissions.

5. The Cruise Terminal project would increase activity by relocating the existing primary cruise terminal from Pier 35 to Pier 27, and by constructing Phase 2 of the cruise terminal building and the Northeast Wharf Plaza Park.

6. The Cruise Terminal project will increase GHG emissions as a result of construction activities from use of construction equipment, worker vehicle trips, and vendor trips.

7. Removing the shoreside cruise ship power source for two years will cause increased GHG emissions because the ships will use their on-board diesel generators during that time.[18]

(DEIR pp. 5.9-16–17, 5.9-30.)

Rather than quantify these emissions and properly determine the significance of the Project's contribution to climate change, the DEIR concludes that any impact will be less than significant because the Projects are consistent with the City's "*Strategies to Address Greenhouse Gas Emissions*" ("GHG Plan"). (DEIR p. 5.9-29–30.) This is improper because: (1) the Project's largest sources of GHG emissions are not covered by the GHG Plan; and (2) use of the GHG Plan as a threshold of significance is invalid as a matter of law because there is no evidence that compliance with the City's GHG Plan will ensure that a project's contribution to climate change will, in fact, be insignificant. **60** [GG-2a]

First, and crucially, the DEIR itself states that the Project includes GHG emissions sources that "would not be reduced through compliance with the [GHG Plan]." (DEIR p. 5.9-29.) These sources include *vehicles*, mobile boat sources from private spectator vessels,[19] construction at the Golden Gate National Recreation Area, and increased cruise ship generator use. (*Id.*) Evidence in the DEIR indicates that the generation of new vehicle trips is the largest source of GHG emissions **61** [GG-2a, GG-2b, GG-2c, GG-2d, GG-2e]

[18] Note that the DEIR fails to identify this as a source of increased GHG emissions.

[19] The DEIR states that "the project sponsor has no authority or regulation over private spectator vessels and therefore cannot implement measures that would reduce their GHG emissions." (DEIR p. 5.9-29.) The existence of regulatory authority over mitigations, and certainly that of *project sponsor*, is utterly irrelevant to the determination of whether a project's impacts are significant.

associated with the Project.[20] And, although the Project's "People Plan" endeavors to reduce transportation emissions once people have arrived in the City, it does not reduce the GHG emissions caused by the generation new vehicle trips sufficient to transport up to 344,000 people a day both *to and from* San Francisco.

Because the Project dramatically exceeds the scope of the City's GHG Plan for reducing GHG emissions from "development and renovations/alterations" projects, there is no basis in fact or reason for employing the GHG Plan as the TOS for the Project's contributions to climate change. To the contrary, because there is substantial evidence that the Project's GHG emissions "may be cumulatively considerable notwithstanding [] compliance with the specified requirements in the [GHG Plan]," the City may not rely on the Plan in its assessment of climate change impacts. (14 Cal. Code Regs. § 15183.5.) **61** [GG-2a, GG-2b, GG-2c, GG-2d, GG-2e] cont.

Second, the DEIR's use of "consistency with the GHG Plan" as a threshold of significance is erroneous as a matter of law for several reasons.[21] The DEIR uses the GHG Plan uncritically, without any factual analysis, in violation of CEQA.[22] Indeed, there is no factual explanation as to why consistency with the GHG Plan—a collection of GHG-related policies and ordinances directed at "development projects"—represents an appropriate threshold of significance for judging the significance of GHG emissions from a massive two-year-long *event*. **62** [GG-2a]

Additionally, although BAAQMD CEQA Guideline 4.3 suggests that an agency may deem a project's GHG contributions to be less than significant if is consistent with a qualified Greenhouse Gas Reduction Strategy, BAAQMD CEQA Guidelines do not provide any factual explanation as to why such consistency represents an appropriate threshold of significance for judging the significance of project-level GHG impacts. As a result, the DEIR also fails to include any such

[20] Transportation is the largest source of California's GHG emissions (37%), followed by electricity generation at 24 percent, industrial sources at 19 percent, and commercial and residential fuel use (primarily for heating) at 9 percent. (DEIR p. 5.9-2.) In the Bay Area, the transportation sector (on-road motor vehicles, off highway mobile sources, and aircraft) and the industrial/commercial sector were the two largest GHG sources in 2007 (each about 36%), followed by industrial and commercial electricity and fossil fuel consumption (including office and retail) (34%), electricity generation (16%), residential fuel usage (7%), off-road equipment (3%), and agriculture (2%).

[21] *Endangered Habitats League v. County of Orange* (2005) 131 Cal.App.4th 777, 793 ("The use of an erroneous legal standard [for the threshold of significance in an EIR] is a failure to proceed in the manner required by law that requires reversal.").

[22] *Protect the Historic Amador Waterways v. Amador Water Agency, supra*, 116 Cal.App.4th 1099.

explanation and is therefore inadequate as a matter of law.[23]

Moreover, is well-settled that compliance with other regulatory standards cannot be used under CEQA as a basis for finding that a project's effects are insignificant, nor can it substitute for a fact-based analysis of those effects. 62 [GG-2a] cont.

M. ENERGY RESOURCES

1. The DEIR Improperly Concludes That Impacts To Energy Resources Are Not Significant, In Part, Because They Are Temporary.

Impacts to energy resources are significant if the Project would "[e]ncourage activities that result in the use of large amounts of fuel, water, or energy, or use these in a wasteful manner." (DEIR p. 5.18-13.)

In general, the DEIR incorporates the temporary nature of the events into its significance finding regarding energy. It states that "Implementation of the AC34 2012 and 2013 events would result in a temporary increase of fuel, energy and water; however, not in amounts substantially different from what would be used for other large events occurring within San Francisco." (DEIR p. 5.18-19 [Impact Summary].) Based on this, the forthcoming Sustainability and People Plans, and the "temporary" relocation of the shoreside power system, the DEIR concludes that "impacts related to the wasteful use of water, fuel, and energy during operation of the AC34 events would be less than significant." (*Id.*)

Regarding fuel use, the DEIR states that the shoreside power transformer at Pier 27, constructed by the Port to provide power to cruise ships while at Port, would be temporarily relocated offsite for approximately 2 years. (DEIR p. 5.18-16.) During this time, the approximately 20 to 22 shoreside-power capable cruise ships expected to use the shoreside power system each year would instead continue to rely on their diesel generators. (*Id.*) The DEIR concludes that the America's Cup facilities and events would not cause a significant impact with respect to this increase in fuel use, in part, because the use of the shoreside power system would be temporary. (DEIR p. 5.18-17; see also DEIR p. 5.18-19 ["Relocation of the shoreside power transformer from Pier 27 would result in only a temporary increase in the use of fuels by cruise ships between 2012 and 2013."].)

Similarly, the DEIR concludes that the use of water for boat washing "would be temporary, limited primarily to the race day events and practice periods before the races" and "[t]herefore, there would not be a large amount of water used for boat washing, and with recycling the water would not be used in a wasteful manner." (DEIR p. 5.18-18.)

[23] *Santiago County Water Dist. v. County of Orange*, *supra*, 118 Cal.App.3d 818.

There is no basis for concluding that the events will not encourage the use of fuel, energy, and water in a "wasteful manner" simply because the temporal scope of the Project is limited. For instance, waste may result from inefficiency, regardless of the duration of the inefficient use. (See 5.18-12 [discussion San Francisco Water Efficient Landscaping Ordinance].) The DEIR offers no legal or factual basis for concluding that any "temporary" use of fuel, energy, and water is, by definition, efficient or otherwise not used in a "wasteful manner."[24] Moreover, it is improper to assume that the Project is temporary when the DEIR recognizes that if the "home team" wins the AC34 events, the event may stay in San Francisco in future years. (DEIR p. 3-93.) 63 [ME-1]

2. The DEIR Failed To Apply Its Own Thresholds of Significance.

As noted above, impacts to energy resources are significant if the Project would "[e]ncourage activities that result in the use of *large amounts* of fuel, water, or energy, *or use* these in a *wasteful manner*." (DEIR p. 5.18-13.) Because this TOS uses the disjunctive "or," there are two standards for significant energy impacts: "large amounts" and "wasteful" use. The DEIR improperly determined significance based on waste alone.

For instance, the DEIR failed to make a determination whether the Project's generation of "about 972,000 [*gallons per day*] of water demand, primarily for toilet flushing and sanitary needs" constitutes encouragement of a large amount of water. (DEIR p. 5.18-18.) It concluded that the impact is insignificant solely on the ground that "building codes require the use of water efficient plumbing fixtures and fixture fittings, and therefore, water used for these services would not be used in a wasteful manner." (*Id.*) Similarly, with respect to energy, the DEIR concludes that "the use of energy during the AC34 events would be minimized and would not be used in a wasteful manner" and failed to determine whether the use of energy would be "large." (DEIR p. 5.18-17.) 64 [ME-1]

The City thus violated CEQA by ignoring its own threshold of significance in concluding that the Project's impacts on energy resources are less than significant.

III. THE DEIR FAILS TO INCLUDE THE "SUCCESSIVE DEFENSE OPTION" IN ITS IMPACT ASSESSMENTS.

The DEIR recognizes that if the "home team" wins the AC34 events, the event may stay in San Francisco in future years. (DEIR p. 3-93.) The Venue and Host commitment provides: "Furthermore, as is reasonably necessary and subject to the cruise terminal construction and operational requirements under Section 5.1(b)(iv) and Port maritime requirements under Section 5.1(c), the use of these Long-Term Venues may be extended for future America's Cup events at the option of the Authority if the GGYC succeeds in defending the America's Cup, is not then in Breach 65 [PD-8]

[24] The DEIR is also flawed to the extent that it determined that the Project's uses of energy, fuel, and water were not significant on the ground that the use was "not atypical." "Typical" uses of these resources may be large or wasteful.

and, after the Parties negotiate a new host city agreement, elects to hold subsequent, successive America's Cup regattas in San Francisco (the "Successive Defense Option"). (Page 12, § 5.1(a)(i).)

The DEIR, however, concludes that many impacts will be LTS based in part on the "temporary" (i.e., two year) nature of the AC34 event. Examples of these impacts include: AE-1 (DEIR p. 5.3-35 ["As these proposed installations would be in place only during the two-year period of the race events, obstructions of public views of scenic vistas of the Bay would be temporary and replaced with views of AC34 race-related and spectator vessels during the period before, during, and after the race events. Therefore, the AC34 events would not generate a substantial adverse effect on scenic vistas, and this impact would be less than significant."]); AE-2, AE-3; AE-4; and CP-1, among others.

While the DEIR indicates that future AC races will be subject to CEQA review, the instant EIR should identify any impacts identified as LTS based in part on the "temporary" nature of the AC34 event that would be "significant" if the Authority exercises its Successive Defense Option.

The DEIR must analyze the impacts of future America's Cup races in San Francisco under the Successive Defense Option is required for three reasons: (1) impacts are not insignificant simply because they are short- term; (2) future races are a reasonably foreseeable expansion or future use of the Project (see e.g., *Laurel Heights Improvement Assn. v. Regents of the University of California* (1988) 47 Cal.3d 376, 396 (*"Laurel Heights I"*) ["an EIR must include an analysis of the environmental effects of future expansion or other action if: (1) it is a reasonably foreseeable consequence of the initial project; and (2) the future expansion or action will be significant in that it will likely change the scope or nature of the initial project or its environmental effects"] *accord*, San Joaquin Raptor/Wildlife Rescue Center v. County of Stanislaus (1994) 27 Cal. App. 4th 713, 723 [EIR failed to provide adequate project description where it failed to include a sewer expansion which would serve the project considered in the EIR and instead treated sewer expansion as a separate CEQA project to be reviewed later]); and (3) future America's Cup races in San Francisco under Successive Defense Option are a reasonably foreseeable future project for purposes of cumulative impact analysis (*Environmental Protection & Information Center v. Calif. Dept. of Forestry & Fire Protection* (2008) 44 Cal.4th 459, 503 citing *Rio Vista Farm Bureau Center v. County of Solano* (1992) 5 Cal.App.4th 351, 370). 65 [PD-8] cont.

The DEIR contends the Successive Defense Option is too "speculative" to require inclusion in the EIR. This is too glib. This Project is wholly a creature of the Venue and Host Agreement, which the parties thereto have already executed. Therefore, the "whole of the project" that must be assessed for environmental impact includes all contractual commitments in the Venue and Host Agreement. Since the "Successive Defense Option" is concrete enough for the City to make it a binding contractual commitment, it is certainly concrete enough to for the DEIR to identify whether any impacts otherwise deemed LTS would be significant if the if the Authority exercises its Successive Defense Option.

Further, future America's Cup races in San Francisco are reasonably foreseeable, and not

speculative, as the home team has won the event in the past. Under *Laurel Heights I* the question of whether future expansion is part of project that must be analyzed turns on whether the later expansion is a foreseeable consequence of the project, and the future "expansion" will be significant in terms of changing the scope or nature of the project or its environmental effects. Not only is it reasonable and practical to include this future project in the EIR's cumulative impact analysis, excluding future races under the Successive Defense Option has shortchanged the EIR's disclosure and analysis of the severity and significance of the cumulative impacts. (*Environmental Protection, supra,* 44 Cal.4th at 525, citing *Kings County Farm Bureau v. City of Hanford* (1990) 221 Cal.App.3d 692, 723.) 65 [PD-8] cont.

IV. CONCLUSION

At some point, the City needs to face the fact that this project, as currently described, may not be legally feasible because the environmental review process cannot be lawfully completed in the time frame required by the Venue and Host Agreement.

As described above, the EIR cannot be certified as a "project-level" CEQA document, because, at most, it only contain broad and general "program-level" disclosure and analysis, reserving investigations of project-level impacts and mitigation measures or alternatives to reduce or avoid such impacts until after project approval. As a result, the DEIR suffers from many fatal informational defects – including many areas where the project description is incomplete and mitigation measures are deferred – that are the direct and foreseeable result of the fact that this DEIR is premature because the City set itself an impossible deadline. Proper planning for this Project required taking the time before issuance of the DEIR to work out the details of the Project, and the various "Plans" that will set forth the final mitigation measures, so that the public would know whether the deferred mitigation measures are feasible or effective in substantially reducing impacts or reducing impacts to LTS. 66 [INT-3, IO-5]

Instead, the DEIR illegally short-circuits the process for identifying and developing mitigation measures based on a business deadline extrinsic to CEQA, with the result that significant required information is omitted. For many significant impacts, the DEIR jumps to a conclusion that the impact is "unavoidable" based on the absence of this omitted information. This circular reasoning does not comply with CEQA's procedural requirements.

Thank you for your attention to this matter.

Very Truly Yours,

Tom Lippe

Thomas N. Lippe

\\Lgw-server\kw\America's Cup\Administrative Proceedings\LGW Docs\c002m SENT LGW comment ltr to to City wpd

This page intentionally left blank

Individuals

INDIVIDUALS COMMENTING ON THE DRAFT EIR

Commenter Code	Name of Individual Submitting Comments	Comment Format	Comment Date
I-Aldrich	Aldrich, Linda	Email	08/22/2011
I-Anderson	Anderson, Jeff	Transcript	08/11/2011
I-Apicella	Apicella, Chris	Email	08/18/2011
I-Bankston	Bankston, Mary	Email	08/25/2011
I-Bauman	Bauman, Buffy	Transcript	08/11/2011
I-Bement	Bement, Reed	Letter	08/25/2011
I-Bizzari	Bizzari, Maurice	Email	08/25/2011
I-Blum	Blum, Jan	Transcript	08/11/2011
I-Boken	Boken, Eileen	Email	08/18/2011
I-Brown	Brown, Kathan	Email	09/02/2011
I-Bump	Bump, Cathy	Transcript	08/11/2011
I-Burdulis	Burdulis, Albert	Email	08/24/2011
I-Burnett	Burnett, David	Email	08/15/0211
I-Calhoun	Calhoun, Charles	Email	08/23/2011
I-Callan	Callan, Mary	Email	08/25/2011
I-Charvat	Charvat, Jan	Email	08/26/2011
I-Chiao	Chiao, Ted and Betsy	Email	08/23/2011
I-Chinn	Chinn, Carol	Email	08/25/2011
I-Coleman	Coleman, Kate	Transcript	08/11/2011
I-Cookston	Cookston, Steve	Email	08/25/2011
I-CooperA	Cooper, Allen	Email	08/30/2011
I-CooperR	Cooper, Reed	Email	08/22/2011
I-Cortis	Cortis, Susan and Jack	Email	08/28/2011
I-CostalesB	Costales, Bryan	Email	08/22/2011
I-CostalesT	Costales, Terry	Email	08/22/2011
I-Cronbach	Cronbach, Michael and Elizabeth	Email	08/25/2011
I-Czelusta	Czelusta, Jesse	Transcript	08/11/2011
I-Dandillaya	Dandillaya, Shoba	Email	08/25/2011
I-Digdigan	Digdigan, Yuhum	Email	08/25/2011
I-Elliot	Elliot, Ann	Email	08/23/2011
I-Erickson	Erickson, Ronald L. and Diana Lynn	Email	08/24/2011
I-Faber	Faber, Anthony	Email	08/24/2011
I-Ferguson1	Ferguson, Sam	Transcript	08/11/2011
I-Ferguson2	Ferguson, Sam	Email	08/25/2011
I-Francis	Francis, Julia and John	Email	08/25/2011

INDIVIDUALS COMMENTING ON THE DRAFT EIR (Continued)

Commenter Code	Name of Individual Submitting Comments	Comment Format	Comment Date
I-Frantz	Frantz, Paul	Email	08/24/2011
I-Gilbert	Gilbert, Brian	Transcript	08/11/2011
I-Graetz	Graetz, John and Ana Suarez	Email	08/22/2011
I-Gross	Gross, Stuart (representing various parties)	Letter	08/25/2011
I-Gusev	Gusev, Andrey	Email	08/25/2011
I-Hafer	Hafer, Statia	Email	08/25/2011
I-Hammack	Hammack, Lee	Transcript	08/11/2011
I-Hammer	Hammer, Lawrence D.	Email	08/25/2011
I-Hanft	Hanft, John	Email	08/22/2011
I-Harrison	Harrison, Donald	Transcript	08/11/2011
I-Hatch	Hatch, Charlotte and Jim	Email	08/22/2011
I-Hoppe	Hoppe, Ted	Email	08/24/2011
I-Horn	Horn, Libbie	Email	07/14/2011
I-Howell	Howell, Keith	Transcript	08/11/2011
I-Illick1	Illick, Joe	Transcript	08/11/2011
I-Illick2	Illick, Joe	Letter	08/09/2011
I-Innocentin	Innocentin, Robert	Email	08/25/2011
I-Intrator	Intrator, Joan	Letter	08/18/2011
I-Joe	Joe, Linda	Email	08/25/2011
I-Johnson	Johnson, Katina	Email	08/24/2011
I-Kealey	Kealey, Maura	Letter	08/23/2011
I-Krautner	Krautner, Sally	Email	08/25/2011
I-Krolik	Krolik, Steven	Transcript	08/11/2011
I-Lauder-Walker	Lauder-Walker, David	Email	08/24/2011
I-Launder	Launder, Arthur	Email	08/24/2011
I-Lee	Lee, Felicia	Email	08/24/2011
I-Leighton	Leighton, Ralph	Email	08/24/2011
I-Litwin	Litwin, Joshua	Letter	08/22/2011
I-Marchesani	Marchesani, Cynthia	Email	08/24/2011
I-McGreevy	McGreevy, Michael	Email	08/22/2011
I-McHenry	McHenry, Andrea	Letter	08/11/2011
I-McKennaB	McKenna, Brendan	Email	07/18/2011
I-McKennaJ	McKenna, Jeffrey	Email	08/24/2011
I-Moore	Moore, John Patrick	Email	08/24/2011
I-Nardil	Nardil, Robert	Email	08/24/2011
I-Newton	Newton, Scott	Email	08/22/2011
I-O'Mahoney	O'Mahoney, Andrew	Transcript	08/11/2011

INDIVIDUALS COMMENTING ON THE DRAFT EIR (Continued)

Commenter Code	Name of Individual Submitting Comments	Comment Format	Comment Date
I-Ortiz	Ortiz, Giorgia	Email	08/25/2011
I-Osborne	Osborne, Daniel	Transcript	08/11/2011
I-Osumi	Osumi, Shirley	Letter	08/22/2011
I-Owen	Owen, Duncan	Email	08/27/2011
I-Parsons	Parsons, J	Email	08/25/2011
I-Paul	Paul, Brad	Letter	08/25/2011
I-Pendergast	Pendergast, William	E-mail	08/14/2011
I-Pfeifer	Pfeifer, Linda	Email	08/25/2011
I-Platt	Platt, G. Bland	Letter	08/25/2011
I-Powning	Powning, Bill	Transcript	08/11/2011
I-Purves	Purves, Caroline	Email	08/24/2011
I-Quarles	Quarles, Rich	Email	08/19/2011
I-Reece	Reece, James	Email	08/22/2011
I-Rhodes	Rhodes, John	Letter	08/23/2011
I-Riley	Riley, Michael	Email	08/25/2011
I-Roberts	Roberts, Katherine McKee	Email	08/23/2011
I-Robin	Robin, George	Transcript	08/11/2011
I-Rome	Rome, Robin	Transcript	08/11/2011
I-Rosas	Rosas, John Tommy	Email	7/11/11
I-Rose1	Rose, Polly	Transcript	08/11/2011
I-Rose2	Rose, Polly	Letter	08/11/2011
I-Rossi	Rossi, James	Email	08/25/2011
I-Rynski	Rynski, Rob	Email	08/22/2011
I-Sasaki	Sasaki, Anne	Email	07/15/2011
I-Scholz	Scholz, Sibylle	Email	07/14/2011
I-Schweisguth	Schweisguth, Dave	Email	08/22/2011
I-Sebastian	Sebastian, Pamela	Email	08/23/2011
I-Seely	Seely, James	Email	08/16/2011
I-Shey	Shey, Kevin	Email	08/23/2011
I-Sizemore	Sizemore, Laurie	Email	08/25/2011
I-St. Thomas	St. Thomas, Ellen	Email	08/23/2011
I-Starkman	Starkman, Ellen	Email	08/22/2011
I-Strassner	Strassner, Howard	Letter	08/24/2011
I-TaylorJ	Taylor, Joseph	Email	08/22/2011
I-TaylorK	Taylor, Karen	Email	08/23/2011
I-Thompson	Thompson, Lawrence	Email	09/02/2011
I-Tow	Tow, Lois	Email	08/25/2011

INDIVIDUALS COMMENTING ON THE DRAFT EIR (Continued)

Commenter Code	Name of Individual Submitting Comments	Comment Format	Comment Date
I-Vaidya	Vaidya, Ash	Email	08/25/2011
I-Wade	Wade, Isabel	Email	08/24/2011
I-Walker	Walker, Erik	Email	08/22/2011
I-Walton1	Walton, Diane	Transcript	08/11/2011
I-Walton2	Walton, Diane	Letter	08/11/2011
I-Wang	Wang, Susan	Email	08/23/2011
I-Wertz	Wertz, Louis	Email	08/22/2011
I-Whitaker	Whitaker, Jamie	Email	08/24/2011
I-Witcoff	Witcoff, Lauren	Email	08/25/2011
I-Wittman	Wittman, Colleen	Email	08/25/2011

SOURCE: ESA, 2011

I-Aldrich

From: Linda Aldrich
To: joy.navarrete@sfgov.org
Subject: Please Protect Open Water
Date: 08/22/2011 09:41 AM

Please no recreational marinas in the now-protected open (water) space after the Americas Cup. 1 [AE-2]

Thank you,
Linda Aldrich
2838 Jackson Street
San Francisco, CA 94115

I-Apicella

From: Chris Apicella
Reply To: Chris Apicella
To: joy.navarrete@sfgov.org
Subject: America's Cup EIR comments
Date: 08/18/2011 10:43 PM

Joy,

I tried to sift through the draft EIR and needless to say it was incredibly dense and difficult to read. I, along with several hundred regular windsurfers and kitesurfers at the East Beach of Crissy Field will be severely impacted by this event right in the middle of our season. There was barely any mention of this and no mitigation measures for loss of access not just to the bay but also to the area where we park and rig our equipment. I understand that such a small group does not have much of a say in the fantasies of a billionaire's sailing dreams on the northern waterfront, but some very simple things could be done to mitigate the loss of access.
1. Enhancing access at alternate locations such as Treasure Island
2. Making storage facilities available (such as the soon to be vacant Exploratorium offices along Mason Street across the street from the East Beach) so that we could access the beach and water after the races without relying on vehicular transportation.

Please address these issues in the final EIR. Though excited on a certain level about this event, it will be hugely disruptive to a large number of people. Providing mitigation to this will help. 1 {RE-4}

Regards,
Chris Apicella

I-Bankston

From: Bill Wycko
To: Joy Navarrete
Subject: Fw: Comments on America's Cup 34 Draft EIR, Case No. 2010.0493E
Date: 08/25/2011 10:04 AM

----- Forwarded by Bill Wycko/CTYPLN/SFGOV on 08/25/2011 10:04 AM -----

"Mary B" <mlb760@gmail.com> To <Bill.Wycko@sfgov.org>
cc
08/24/2011 09:45 PM Subject Comments on America's Cup 34 Draft EIR, Case No. 2010.0493E

To Mr. Wycko:

This is to let you know my concern relative to allowing the Rincon Point Open Water Basin be permanently used commercially. The bay views in this area are an invaluable asset and part of a landmark which singles San Francisco out as a beautiful City. It should be preserved as an amenity for all to enjoy and should not be obstructed for private use of the water basin by a few. Planners work hard to develop areas in which the social fabric weaves flawlessly into the natural one as in this area. The area serves so many people from all walks of life, all areas of the country including locals in helping to develop healthy lifestyles by jogging, walking, biking, or just sitting to enjoy the bay views. It is part of what makes San Francisco a destination City. It enjoys constant use from the early morning hours until late in the evening making it one of the safest areas in San Francisco. To clutter the basin with a bunch of boats would be detrimental to the public while rewarding a select few. Let's preserve this public space as the greatest good for the greatest number not only for ourselves but for future generations. 1 [AE-2]

Thank you for taking these concerns into consideration.

Respectfully Submitted,

Mary Bankston
owner of a unit at The Infinity

COM-298

I-Bement

REED H. BEMENT
75 FOLSOM STREET #1800
SAN FRANCISCO, CA 94105

August 25, 2011

VIA EMAIL

Joy Navarrete
Senior Environmental; Planner
San Francisco Planning Department
1650 Mission Street, Suite 400
San Francisco, CA 94103

Re: America's Cup EIR (Case No. 2010.0493E)

Dear Ms. Navarrete:

I am writing concerning the Draft EIR for the America's Cup project.

Bringing the America's Cup to San Francisco will be a great benefit to the City and its residents. As a resident of the Embarcadero, which will be one of the most directly affected neighborhoods, I applaud the efforts made to date to bring this world renown event to San Francisco.

I am also aware of the extraordinary time restraints which the preparation of the Draft EIR was subject to and I commend those responsible for its preparation for the wealth of information provided under these circumstances.

There is, however, one major deficiency in the Draft EIR which needs to be addressed. That deficiency has been recently noted by articles in the San Francisco Business Times (August 19-25, 2011, p. 1) and the San Francisco Chronicle (August 22, 2011, p. 1).

The Draft EIR fails to address the potential environmental impacts of the long term development rights granted to the Event Authority for the Rincon Point Open Water Basin and the Brannan Street Wharf Open Water Basin. 1 [AE-2]

These two basins provide extraordinary public benefits in terms of public access and views of the Bay. This access and these views will be significantly enhanced by the building of the Brannan Street Wharf which will allow even greater public access to the Bay with unparalleled views of the Bay and the Bay Bridge.

I-Bement

Joy Navarrete
August 25, 2011
Page 2

To permit the building of marinas in these two locations, as the Draft EIR suggests is a possible (likely?) long term use, would seriously interfere with the public's rights to enjoy these areas. Although the temporary impairment of these rights for the length of the America's Cup might be justified, the permanent cutting off of these rights should not be permitted. Such a significant abrogation of the public's rights must be examined and considered at this point, rather than being left to the future if this project is to proceed.

In order not to jeopardize the entire project, which might well be the result of dealing with this inadequacy in the Draft EIR by revising it, a better solution would be for the City to negotiate with the Event Authority so as to clarify the governing agreement to eliminate the possibility of such a permanent and unjustified impairment of the rights of the public and the good of the City.

1 [AE-2] cont.

Thank you for your consideration.

Very truly your,

s/Reed H. Bement

I-Bizzari

From: Maurice Bizzarri
To: Bill.Wycko@sfgov.org; joy.navarrete@sfgov.org
Subject: Comments on America's Cup 34 Draft EIR, Case No. 2010.0493E
Date: 08/25/2011 12:00 PM

Dear Bill and Joy,

Please do not block our view from Rincon Park. I live on Rincon Hill, and that area is where we walk and view the bay. Please move the megayachts somewhere else on the bay. Thank you for your time and consideration.

1 [AE-2]

regards,

Maurice

Maurice Bizzarri
50 Lansing St. Unit 403
San Francisco, CA 94105
(415) 817 1663 (home)
(650) 575 3694 (cell)

August 21, 2011

TO: SAN FRANCISCO PLANNING DEPT
ENVIRONMENTAL REVIEW OFFICER
ATTN: BILL WYCKO
BILL.WYCKO@SFGOV.ORG

FROM: EILEEN BOKEN

COMMENTS TO 34TH AMERICA'S CUP AND JAMES R. HERMAN CRUISE TERMINAL AND NORTHEAST WHARF PLAZA DRAFT EIR (FILE NUMBER 2010.0493E)

1) General references are made to Pier 70, but no references are made to Pier 70 in terms of America's Cup-related activities. 1 [PD-1]

2) General references are made to the site of the former Potrero Hill power plant, but no references are made to this site in terms of America's Cup-related activities.

3) Specific references are made to Treasure Island for America's Cup-related activities. These three uses are cited:

A) Potential secondary viewing area.
B) Potential helipad.
C) Weather station.

Nowhere in the EIR is Treasure Island listed as a potential secondary venue. 2 [IO-1c]

4) Nowhere in the EIR is there a reference to an Infrastructure Financing District for the America's Cup. 3 [GEN-2]

August 25, 2011

TO: SAN FRANCISCO PLANNING DEPT
ENVIRONMENTAL REVIEW OFFICER
ATTN: BILL WYCKO
BILL.WYCKO@SFGOV.ORG

FROM: EILEEN BOKEN

ADDITIONAL COMMENTS TO 34TH AMERICA'S CUP AND JAMES R. HERMAN CRUISE TERMINAL AND NORTHEAST WHARF PLAZA DRAFT EIR (FILE NUMBER 2010.0493E)

Potential Uses

The America's Cup Draft EIR makes reference to Treasure Island for three potential uses:

1) Potential Helipad

America's Cup Draft EIR Volume 1 pages 1-4, 3-27, 3-50 and figure 3-18 and 3-68

and 5.2-25 and Volume 2 pages 5.7-42, 5.7-43, 5.8-11, 5.8-37

Use of Existing Helipad at
Treasure Island, or Helipad on
Barge at Pier 80

2) Weather Station

America's Cup Draft EIR Volume 1 pages 3-61 and 3-78 lists TI as potential site for weather equipment.

3) Potential Secondary Viewing Area

America's Cup Draft EIR Volume 1 page 3-78, TI as potential secondary viewing area:

"AC34 2012 and AC 34 2013: Potential Secondary Viewing Areas
While there are no additional designated spectator venues and/or associated improvements or facilities proposed as part of AC34 at any locations beyond those sites discussed above, there are other public areas where spectators might watch the AC34 races (hereafter, described as "secondary viewing areas"). These secondary viewing areas

would include, but not be limited to, other public areas along the San Francisco waterfront, other GGNRA lands (e.g., within the Presidio or Marin Headlands), the Sausalito waterfront, Angel Island (managed by California State Parks), and Treasure Island/Yerba Buena Island. A full description of the potential "secondary viewing areas" is provided in the Chapter 5, Section 5.1.3 of this EIR, and potential project impacts on these areas are addressed in all applicable impact sections of the EIR."

References also on page 3-87 and 5.1-7 and 5.1-8 and 5.3-2 and 5.3-19 and 5.5-3 and 5.5-26 and 5.5-95 and 5.6-107 and 5.6-130 and 5.6-132 and 5.6.133 and Volume 2 pages 5.7-11, 5.7-32, 5.8-40, 5.9-29, 5.11-27, 5.12-9, 5.14-102, 5.15-22

America's CupVenues

America's Cup Draft EIR Volume 1 page 3-41 and figure 3-26 lists America's Cup venues. Treasure Island is not listed as a venue. In Volume 2 page 5.16-12 specifically states Treasure Island not a formal venue.

Separate Timeframes

America's Cup Draft EIR Volume 1 5.5-129 states ". In addition, the development schedule for Treasure Island has a long□term (15□20 year) timeframe for completion.as such, there would be little if any temporal overlap between the development activities and the Proposed (America's Cup) event activities

This is also reiterated in the Treasure Island Final EIR Comments and Responses Volume 1 Chapters 1 – 3 page 3.147

Based on the information about phasing of the Proposed Project (see Chapter II, Project Description, Section K, Project Phasing and Construction , p. II.79 – II.82), it is not likely that substantial amounts of new housing or commercial space would have been constructed and be available for occupancy by 2012 – 2013 when the America's Cup races would occur. Therefore, it is not expected that spectator activities would result in substantial impacts on new businesses or new residents of the Islands. Spectator activity at Treasure Island during the America's Cup races would not be a long term or permanent activity. Therefore, it would not result in growth-inducing impacts on Treasure Island.

Cross References

Treasure Island/Yerba Buena Island Redevelopment Project Final EIR released 3/16/11 only mentions America's Cup in the Comments and Responses section Volume 1 Chapters 1 – 3 page 2.7.67 "Since publication of the Draft EIR, the City of San Francisco was selected to host the 34th America's Cup yacht race. Current plans call for races to be held in the summers of 2012 and 2013 in San Francisco Bay. Race-related facilities are currently proposed at several waterfront sites on mainland San Francisco; however, there are no plans to construct race-related facilities or uses on Treasure Island or Yerba Buena Island."

I-Boken

Volume 1 Chapters 1 – 3 page 3.147 states "The America's Cup sailing races are expected to be held in San Francisco Bay in the summer and fall in 2012 and again in the summer and fall in 2013. No special facilities for these races are proposed to be constructed on Treasure Island or Yerba Buena Island It is expected that interested spectators would use Treasure Island as a viewing area for some of these races, as would many other shoreline locations in San Francisco, such as Herb Caen Way along The Embarcadero, the Marina Green, and shoreline sites in the Golden Gate National Recreation Area.the spectator activities likely to occur on Treasure Island would be short term, similar to the special events that occur there now, such as the annual Treasure Island Music Festival. For those events, a special transportation demand management ("TDM") program is used to coordinate access to and egress from the Islands. Therefore, a mechanism is already in place to address any temporary transportation issues that might arise during the six- to eight-week period that the America's Cup races would occur. It is not likely that regular ferry service would have been initiated by the time that the America's Cup races were held; therefore, the existing TDM program would likely be used."

I-Brown

From: Kathan Brown
To: joy.navarrete@sfgov.org
Subject: yachts
Date: 09/02/2011 10:03 AM

Dear Ms. Navarrete,

My husband and I have an apartment in the Hills Building. We are fortunate to be able to look out every day across the open water basin to the bridge past the Oldenburg sculpture. Many many people use this park--we see them with dogs, lunches, exercise mats, frisbees, books, and we join them in the great enjoyment of walking along next to the water.

I know you have had many messages about how much and how well this open space is used. But I haven't yet seen mentioned how photographs make this space a lasting part of San Francisco's image. On weekends there are always several wedding parties being photographed with the bay and bridge as a backdrop. We have seen many movies being made, amateur and professional. If you fill this vista with yachts, San Francisco will loose not only a much-loved place for individual pleasure and shared memories, but an invaluable part of the image it is constantly sending out to the world. 1 [GEN-4]

Kathan Brown

I-Burdulis

From: Albert Burdulis
Reply To: Albert Burdulis
To: joy.navarrete@sfgov.org
Subject: Comments on the Americas cup EIR
Date: 08/24/2011 02:33 PM

I would like to add my comments to the Public comments portion of the EIR:

I am a Bay area native and 15 year San Francisco resident. I am opposed to ANY permanent marinas, moorings or other structures that block the views as they currently exist today. Temporary marinas, moorings and structures that exist for the portion of time that the Cup racing is occurring are perfectly fine and add to the diversity and fun of the City, to make these permanent such that the super rich are the only ones that can access or enjoy the view is contrary to the public good and should not even be considered. 1 [AE-2]

Al Burdulis

I-Burnett

From: Bill Wycko
To: Joy Navarrete
Subject: Fw: America's Cup EIR Case No. 2010.0493E
Date: 08/15/2011 04:14 PM

----- Forwarded by Bill Wycko/CTYPLN/SFGOV on 08/15/2011 04:14 PM -----

David Burnett
<ddburnett@yahoo.com>

To bill.wycko@sfgov.org
cc
08/15/2011 04:12 PM Subject America's Cup EIR Case No. 2010.0493E

Bill I want to express my concerns about the tentative plan to close northbound lanes of the Embarcadero during the America's Cup. The document mentions in the Transportation Section that there will be significant and unavoidable impacts. It then defers to the People Plan as the document that would contain mitigation measures. The current People Plan does not contain mitigation measures and therein lies the problem.

My immediate concern is the effect that northbound Embarcadero closures have on the the Golden Gateway Community. Traffic is usually diverted up Main onto Drumm St. which ends at Jackson causing a horrific traffic jam. We experienced this during the recent SF Marathon.

Jane Connors Senior Property Manager at the Ferry Building testified last week in front of the Planning Commission that northbound Embarcadero closure is a major detriment to their businesses as they receive 250 daily deliveries which must come from the northbound Embarcadero. Kevin Carroll, Director of the Fisherman's Wharf Community Benefit District noted that their businesses are severely impacted when the northbound Embarcadero is closed.

Peter Albert (MTA) is aware of the northbound Embarcadero closure problem. My point is that it would be helpful to have a traffic diversion strategy in place as a mitigation measure before the Draft EIR is approved.

1 [TR-3d]

DAVE BURNETT
155 Jackson #403
San Francisco CA 94111
415-982-0414

COM-303

I-Calhoun

From: Charles Calhoun
To: joy.navarrete@sfgov.org
Subject: 34th America's Cup Floating Dock and Development Rights
Date: 08/23/2011 03:50 PM

Re: 34th America's Cup Floating Dock and Development Rights

Dear Ms. Navarette,

I wish to state my objection to the installation of a filloating dock in the open water along Rincon Park as requested by the organizers of the 34th America's Cup. Even more important, I wish to also state my objection to the host agreement between the city and the event authority that would allow long term development rights in Bay waters should any dredging be required by the installation of the docks. After finally opening up views to our beautiful bay by removing the freeway and creating the walkways that make these views accessible to our citizens and visitors to this area, it would be a travesty to have this kind of development take any of that away either in the short or long term. Please convey my objections to the members of the San Francisco City Planning Department.

1 [AE-2]

Thank you for your kind attention to this matter.

Sincerely,

Charles Calhoun
2459 Post St.
SF 94115

I-Callan

From: mfcallan@sbcglobal.net
Reply To: mfcallan@sbcglobal.net
To: Joy.Navarrete@sfgov.org
Subject: Comments on America's Cup 34 Draft EIR, Case No. 2010.0493E
Date: 08/25/2011 10:52 AM

I am opposed to the proposed Marina. It will not only hurt local businesses who depend on the view but also ruin the view for homeowners. We were all told the park area with total water views at the foot of Folsom,Howard and Mission would never have any obstructions. Keep your word. Mary F Callan 1 [AE-2]
Sent from my Verizon Wireless BlackBerry

I-Charvat

From: Jan Charvat
Reply To: jch@cox.net
To: joy.navarrete@sfgov.org
Subject: Plan for and reduce the impact of America's Cup to the bay!
Date: 08/26/2011 12:00 AM

To the San Francisco Planning Department:

Please do not let the America's Cup event completely bypass all environmental protections and to destroy what took decades to build up and protect. San Francisco and the bay are true treasures of California and we should show visitors its beauty as well as preserve it for ourselves (residents) and our children. Please study the impacts carefully and plan the event so that it protects and showcases the environment, not destroys it. 1 [INT-1]

Thank you for your consideration.

Jan Charvat
573 Anderson Road
Alpine, CA 91901

I-Chiao

From: Ted Chiao
Reply To: Ted Chiao
To: jay.navarrete@sfgov.org
Subject: Opposition to Planned Use Rincon Point Open Water Basin
Date: 08/23/2011 06:14 PM

TO: Ms. J. Navarrete, Senior Environmental Planner

My wife and I are year-round residents of One Hills Plaza-Condominum, facing directly the "Rincon Point Open Water
Basin."

We read with great alarm that the Rincon Point Open Water Basin could be turned into a permanent commercial marina
after the 2013 America's Cup. We could tolerate temporary traffic congestion and temporary loss of the uncluttered
Bay view DURING the race in 2013.

BUT, we resolutely oppose/reject the possibility that the Basin be turned into a PERMANENT commercial marina.

1 [AE-2, GEN-4]

Please register properly our voice of opposition.

Thank you.
Ted & Betsy and Chiao
75 Folsom St., #901
One Hills (Condo) Plaza
San Francisco, California, 94105
Tel. 415-543-2766

I-Chinn

From: Carol Chinn
To: Jay.Navarrete@sfgov.org; B_Wycko@sfgov.org
Subject: Comments on America's Cup 34 Draft EIR, Case No. 2010.0493E
Date: 08/25/2011 03:43 PM

Dear Ms. Navarrete and Mr. Wycko,

My husband and I are owners of a condo at The Infinity on Main & Folsom Sts. We love the location and very much enjoy strolling along The Embarcadero with it's wide-open bay views.

We are protesting the proposed plan to convert the Rincon Point Open Water Basin to berth 40-foot tall mega yachts before and during the America's Cup races. This conversion will be an eye-sore and ruin the views for all spectators, pedestrians, runners and bicyclists. Please reconsider and implore the Planning Department to reject this site plan for a boat marina.

1 [AE-2]

Thank you.
Sincerely,
N. Carol Chinn

I-Cookston

From: Steve Cookston
To: Joy.Navarrete@sfgov.org
Subject: Comments on Americaâ€™s Cup 34 Draft EIR, Case No. 2010.0493E
Date: 08/25/2011 08:54 AM

Ms. Navarrete -

Please register my strong **NO** vote on the proposed Rincon Point Open Water Basin converting into a permanent commercial marina after the 2013 America's Cup. This will destroy the sensitive eco system already stressed by significant commercial use and also greatly devalue real estate holdings of thousands of residents and property owners in the area. In speaking with my fellow owners at the Infinity high rise, there is a great deal of fear and anger already just over this possibility. 1 [AE-2]

Please help us prevent this damaging event from being realized.

Most sincerely,
Steve

Steve Cookston
338 Spear Street
Suite 42B
San Francisco, CA 94105
415.615.6900
415.404.7371 Fax
steve@cookstongroup.com

I-CooperA

From: Bill Wycko
To: Joy Navarrete
Subject: Fw: AC34 Draft EIR - Yacht Docking Facilities
Date: 08/30/2011 08:17 AM

----- Forwarded by Bill Wycko/CTYPLN/SFGOV on 08/30/2011 08:17 AM -----

Allen Cooper
<adc@stanford.edu>
Sent by:
adcster@gmail.com

08/29/2011 07:36 PM

To bill.wycko@sfgov.org
cc manthony1948@yahoo.com, hoa_towers@yahoogroups.com, larry.ellison@oracle.com, jane.kim@sfgov.org, jking@sfchronicle.com, ed.lee@sfgov.org, kyri@sfacoc.org, monique.moyer@sfport.com, diane.oshima@sfport.com, dperry@davidperry.com, michaelasweet@yahoo.com, travis@bcdc.ca.gov, corinnewoods@cs.com, joy.navarette@sfgov.org
Subject AC34 Draft EIR - Yacht Docking Facilities

I was very disturbed by the rapid and knee jerk response of the Mission Bay- South Beach Neighborhood Association's Board to the article written by John King. I have been a tenant at south Beach Marina for more then 15 years and a full time resident of South Beach for more then 8 years and saw no evidence that the Board attempted to solicit input of the residents they represent or gave serious consideration to the issue. There have been numerous City approved plans to develop marine activities along the eastern water front including a boating center (a bit further north), the Embarcadero anchorage with mooring balls in the area under discussion, that was discontinued because of lack of use and the cruise ship terminal originally planned for the Brannon St wharf area, that was abandoned, I believe, because of lack of funding by the developer. Those developments or the possible marinas created as a result of the America's Cup agreement would indeed change the views but not necessarily obscure them. The water, bridge and Oakland coast would all still be highly visible but with the addition of masts in the foreground. It is a matter of artistic opinion which vista more interesting and thus preferable. On the other hand the presence of additional boats in the South Beach area might help create or re-vitalize the now virtually non-existent marine service industry in San Francisco. Currently almost all such businesses are in either Sausalito or Alameda. The chandlery that was in the South Beach area closed because the volume of business did not justify the rent and the South Beach Riggers is now based in Sausalito. Things such as a chandlery, sail loft or engine shop would bring new revenues from clean, low environmental impact businesses into an area dominated by restaurants, bars, and furniture shops. The people who work in these businesses and the people who service the boats as well as the boat owners would have an incentive to live and spend in the area bringing new revenue to the city and a diversity of needed services to the neighborhood. The marinas will almost certainly be a great success as judged by the success of South Beach marina which has one of, if not the longest waits for a birth on the bay because of the favorable environment with flat water sunny skies and moderate wind as well as easy access and good public transportation. The notion that boat owners are a wealthy elite is simply untrue as it is well documented that the vast majority of recreational boaters are from the full spectrum of the middle class. Thus one question is should South Beach -Mission Bay evolve into a place where internet future millionaires live and eat while waiting for their stock options before moving on or will it become a diverse and robust neighborhood with a varied economic and social base. I urge the Planning Commission, the Port and the Neighborhood Association to give careful consideration to all of 1 [GEN-4]

I-CooperA

the implication of such development before insisting that nothing be done to preserve a few specific photo ops. NIMBY should lot always be our first response. 1 [GEN-4] cont.

--
Allen D. Cooper, M.D.

I-CooperR

From: reed.cooper
To: joy.navarrete@sfgov.org
Subject: Americas Cup
Date: 08/22/2011 12:42 PM

Ms Navarrete:

I'm looking forward to the Americas Cup, and I hope that there will be no long-term changes to the SF waterfront. 1 [LU-9]

Best wishes,

Reed Cooper

I-Cortis

From: Bill Wycko
To: Joy Navarrete
Subject: Fw: Comments on America's Cup 34 Draft EIR, Case No. 2010.0493E
Date: 08/28/2011 11:24 AM

----- Forwarded by Bill Wycko/CTYPLN/SFGOV on 08/28/2011 11:24 AM -----

Susan Cortis
<summerrulessusan@comcast.net>

08/26/2011 08:33 PM

To Bill.Wycko@sfgov.org
cc
Subject Comments on America's Cup 34 Draft EIR, Case No. 2010.0493E

I am not in favor of the Rincon Point Open Water Basin becoming a permanent marina after the 2013 America's cup. 1 [AE-2, GEN-4]

Susan and Jack Cortis

Susan Cortis
301 Main Street Unit 20D
San Francisco, CA 94105
415-357-1978
summerrulessusan@comcast.net

I-CostalesB

From: Bryan Costales
To: joy.navarrete@sfgov.org
Subject: Comment On Draft EIR
Date: 08/22/2011 04:20 PM

I feel strongly that no permanent change should be made to the waterfront between piers 4 and 30 without full and comprehensive public hearings and review. Please add me to the mailing list for any such hearings that may be scheduled in the future. 1 [INT-3]

Best Regards,
Bryan Costales
http://www.bcx.org

I-CostalesT

From: Terry Costales
To: joy.navarrete@sfgov.org
Subject: EIR Comment
Date: 08/22/2011 04:05 PM

I live a few blocks away from Rincon Park. Please, please, please do not destroy our wonderful bay views so the super-rich can park yachts conveniently. Please protect the health of our Bay and the mental health of SF. 1 [AE-2]

No Dredging!!!! Put up a fight for us!

Thank you.

--
Terry Costales
Animalblog <www.bcx.org/blogs/animalblog>

I-Cronbach

From: Michael Cronbach
To: joy.navarrete@sfgov.org; bill.wycko@sfgov.org
Subject: Fw: America's Cup DEIR Yacht Parking in front of Cupid's Arrow sculture
Date: 08/25/2011 04:57 PM

Resending.Sorry for the typo!

Michael Cronbach 4:57 PM August 25th

--- On **Thu, 8/25/11, Michael Cronbach** *<mcronbac@yahoo.com>* wrote:

From: Michael Cronbach <mcronbac@yahoo.com>
Subject: America's Cup DEIR Yacht Parking in front of Cupid's Arrow sculture
To: joy.navarrette@sfgov.org
Cc: jking@sfchronicle.com, jcarroll@sfchronicle.com, "Elizabeth Cronbach" <elizabethc94114@yahoo.com>, "alec bash" <alec.bash@gmail.com>, "Arthur Feinstein" <arthurfeinstein@earthlink.net>, "Emily Cronbach" <gamine_justine@yahoo.com>, "Nick Cronbach" <Ncronbach@gmail.com>, "Clinton Cleveland" <ccleveland@gmail.com>, "Supevisor Scott Wiener" <Scott.Wiener@sfgov.org>
Date: Thursday, August 25, 2011, 3:59 PM

August 25, 2011 4:00 PM

Dear Ms. Navarrette;

We heartily agree with the issues raised by John King and John Carroll in their articles in this week's SF Chronicle regarding the proposed Yacht Mooring/Viewing/Parking area in the bay opposite the Cupid's Arrow Sculpture. That small waterfront park is a jewel and is part of our frequent strolls along that part of The Embarcadero. 1 [AE-2]

We object strongly to that aspect of the Anmerica's Cup project.

Thanks for your attention.

Michael and Elizabeth Cronbach
860 Elizabeth Street
San Francisco, CA 94114

I-Dandillaya

From: Shoba Dandillaya
Reply To: Shoba Dandillaya
To: Joy.Navarrete@sfgov.org
Subject: Comments on America's Cup 34 Draft EIR, Case No. 2010.0493E
Date: 08/25/2011 06:55 PM

As a SF homeowner, I have concerns that the temporary America's cup marina will become permanent. I urge you to please not let that happen. 1 [AE-2]

Shoba Dandillaya

I-Digdigan

From: Yuhum Digdigan
To: joy.navarrete@sfgov.org
Subject: America's Cup Plan on the SF Waterfront
Date: 08/25/2011 03:59 PM

Dear Ms. Navarrete,

I am writing this email to register my strong opposition to the development that could happen to the waterfront in SF, particularly the Rincon Point Open Water Basin and the Brannan Street Wharf. I am a long term resident of the waterfront and I will oppose any development that could spoil the pristine beauty of the bay and the Bay Bridge. Larry Ellison and his super wealthy friends should not be allowed to dictate the terms of the development of the area before or after the Cup races. He and his friends do not live here; they could care less. The "Host Agreement" must not allow them any right to dredge the bay to accomodate their monstrous yachts, nor should the City allow them rights to any long term development in our open water basins in Rincon Point and Brannan Street Wharf.
Please inform us early of any new plans as you receive them, as well as the progress of their permit plans already submitted. 1 [AE-2]

Thank you.

Yuhum Digdigan
75 Folsom Street, #1107
San Francisco, CA 94105

I-Elliott

From: Ann Elliott
To: joy.navarrete@sfgov.org
Subject: America's cup Figure 9 in draft
Date: 08/23/2011 03:32 PM

Hi Joy,

Not quite sure to whom to send this..please see that it is added to the public comments pile.

I am 100% for hosting America's Cup here in SF and most of the improvements to the wharf look great. I do, though,take issue with the possibility of erecting a recreational marina between Piers 14 and 22 1/2 for the docking of 26 super yachts. This would infringe on the viewing of those from the shore, and any future possibility of a permanent marina in that spot is totally against our now protected open water space policy. It is important to maintain our open spaces for the benefit of all of our residents and visitors. Surly these 26 yacht owners can fly their private jets into one of the airports and hire a limo to take them to a posh hotel in the downtown area where they can reside in complete comfort during the festivities and give their servants a few days off. 1 [AE-2]

Sincerely,

Ann T. Elliott
Marina District
San Francisco

I-Erickson

From: lynnerickson@comcast.net
To: joy.navarrete
Cc: Piera Baldocchi; Davis, Mary
Subject: 34th America's Cup Project
Date: 08/24/2011 10:17 AM

Joy Navarrete
Senior Environmental Planner
San Francisco Planning Department
1650 Mission Street, Suite 400
San Francisco, CA 94103
(415) 575-9040

Ms. Navarrete,

As owners and permanent residents at One Hills Plaza, we are appealing the proposal for the AC34 project. We are excited that our beautiful city is hosting this spectacular event however, we are also mindful of the permanent impact that may result from the totality of the proposed project.

Our city is magnificent and has so much to offer visitors during the America's Cup. It is important that we remain mindful of the efforts that have been on-going to make this city so special. The area along the Embarcadero, the exact area that is prime for change with this proposal, is still undergoing major modification. We are strongly against allowing the AC34 to hamper the area by building structures that may sabotage this development ...views, parks, and open space.

Though intentions and plans may seem honorable, structures that are built for specific events are never as environmentally sound as those that have been a part of long-term plans. We purchased our home because of the plans that were on the city books at the time as well as existing amenities in the area. We strongly advise the committee to look long and hard at the proposal and prevent changes that will impact us for the future. 1 [AE-2]

Sincerely,

Ronald L. and Diana Lynn Erickson
One Hills Plaza
75 Folsom Street, #804
San Francisco, CA 94105
(415) 495-6922
lynnerickson@comcast.net

I-Faber

From: Anthony Faber
To: Bill.Wycko@sfgov.org; Joy.Navarrete@sfgov.org
Subject: The concept of blanketing SoMa's waterfront with marinas is penny-wise and pound foolish
Date: 08/24/2011 11:55 AM

Obstructing the bay views of that area will, in the long run, make San Francisco a less desirable tourist destination. The America's Cup is a good thing and will bring in a fair bit of cash, but keeping the Embarcadero views will probably gain us more revenue and business in the long run. 1 [AE-2]

Anthony Faber

I-Ferguson2

From: Sam Ferguson
To: joy.navarrete@sfgov.org
Subject: case no. 2010.0493E
Date: 08/25/2011 04:12 PM

Dear Joy,

I am writing because I object with the draft eir case no. 2010.0493E. I also spoke at the public hearing on August 11, 2011 and at that time I wrote erroneously on my speaker card that I was in favor of the draft. Please rescind that error and place me firmly against the draft for two reasons: 1 [GEN-3]

One! Aquatic Park should be designated as a recreational resource area of special concern and post event repair. This repair could be to ensure the bay remains safe to swim if the results of case 2010.0493E should make swimming unsafe. 2 [RE-2]

Two! Municipal pier shouldn't be closed for the events while piers 30-32 receive the longest period of permanent construction, including seismic upgrades, scaffolding supports, and stormwater drainage. Municipal Pier should receive the benefit of America Cup funds, and the base that is planned for piers 30-32 can go somewhere else or be part of or instead of the village. It is know that millionaire cup winner will have a 66 year lease option. on piers 30-32. Why permanently upgrade his leased property when municipal pier is in such dire need of repair? 3 [GEN-4]

Now regarding Aquatic Park: The Dolphin Club and the South End Rowing Club are two facilities that are located in Aquatic Park and use Aquatic Park for recreational purposes such as swimming and boating, and other activities. However, the draft does not include mention of either club, or the use made of Aquatic Park for recreation. I have identified a few sections that should be modified to include these clubs, and the activities of the members. I want to emphasize the clubs have been a part of San Francisco Maritime National Historic Park (SAFR) for over 100 years.

Pg 2-7 Section 5.11 Dolphin Club and South End Club use of Aquatic Park and the greater SF Bay should be included in the analysis

Pg 2-8 Section 5.14 Item one "Delayed dredging..." impacts on water quality that impact swimming should be included such as sediment."

Pg. 2-8 Section 5.16 "Impacts of stormwater..." impacts on water quality that impact swimming such as chemical and sewage should be included.

Pg. 2-10 "This chapter describes...recreation...." Swimming in Aquatic Park and boating on the bay should be included in the section referred to by this paragraph. On section 5.3-39, recreation should be included with "scenic resources" on the section describing Crissy Field and Aquatic Park.

Pg. 3-76 "Aquatic Park..." Venue and general merchandise sales, exhibitions, boat displays, and a large video screen set on a floating platform are unacceptable without a proper analysis of the recreation (swimming and boating) that occurs in Aquatic Park, the impact other enjoyment of the SAFR, the impact of accessibility and alternatives to parking, and the impact of protected wildlife such as the snowy plover. Regular field trips are conducted in Aquatic Park for birdlife by the National Audborn Society. A large video screen would violate visual character, quality, and sensitivity of Aquatic park (5.3-1)

Table 3-9. What are the Corporate and private functions for Aquatic Park?

At some places in the document, Aquatic Park is lumped in Fisherman's Wharf, with

4 [GEN-3, LU-1, HY-3, HY-9c, HY-9e, LU-5, PD-6, RE-6]

I-Ferguson2

Fort Mason (5.3-12), and other places Fort Mason is not included. Please be consistent with classification.

On Section 5.2-2 through 5.2-5, The Dolphin club and the South End Rowing club should be included under the Heading "Fisherman's Wharf" similarly to how on page 5.2-7 The San Francisco Bay Club is included under the heading "Northeast Waterfront"

On page 5.2-14, the dolphin club and the south end rowing club should be included in the description of SAFR and Aquatic Park

On page 5.2-30, the dolphin club and the south end rowing club should be included as the San Francisco Bay Club is included. This section should reflect how recreation including swimming, boating, and cycling will be impacted and how it could be accommodated in the appropriate section.

On page 5.5-17, the 100 year plus long history and enjoyment of the Dolphin club and the South End Rowing Club should be included in this section for swimming and boating, despite the absence of the "heated industrial discharge" (??) which prompted swimmers "as early as the 1880s". This section is heart – renderingly missing any account of the stewardship of land and water afforded by members of these clubs, and the many miles that have been swum and boated. Even a recent relay to the Farallon Islands!

4 [GEN-3, LU-1, HY-3, HY-9c, HY-9e, LU-5, PD-6, RE-6] cont.

I want more specific details about the proposed amendments to the San Francisco Waterfront Special Area Plan;

5 [PP-1]

Thank you very much

Sam Ferguson

COM-313

I-FormLetter

From: Amy Green
Reply To: littleyellowchickens@yahoo.com
To: joy.navarrete@sfgov.org
Subject: Reduce impacts of America's Cup to Bay environment with a detailed EIR
Date: 08/25/2011 12:46 PM

Dear San Francisco Planning Department,

I strongly support the development of specific, measurable goals to protect the protection of San Francisco's sensitive coastal and marine habitats, water quality, and air quality in a comprehensive Environmental Impact Report (EIR) as required by the California Environmental Quality Act (CEQA) for the America's Cup. The goal of CEQA is to provide information on the negative environmental impacts of a proposed project and how to avoid and mitigate them. The City's attempt to plan for the project consistent with the CEQA analysis has produced a deeply flawed Draft EIR document that puts the risk of delaying the projects in support of the America's Cup specifically,

1) The Draft EIR is seriously flawed in its attempt to combine the so-called-term America's Cup event with the long-term development of the Pier Seaport, Piers Park Shell and Slip building, and the as yet undetermined development rights that will be granted to the event Authority. 1 [INT-1, IO-5]

2) The massive Draft EIR lacks necessary information in many regards to sensitive habitats, water quality and air quality impacts, and repeatedly understates the impacts of the race events on the City and the Bay. This consistent understatement of impacts leads directly to inadequate and underfunded mitigation measures, the unnecessary inconveniencing of visitors and locals alike, and serious effects on our unique natural environment. 2 [GEN-3]

3) The document references many implementation plans as mitigation for identified impacts, yet none of the plans have been finalized. At this point we must know specifically what the proposed mitigations are, determine their adequacy or ensure their funding. 3 [PD-7]

Specific details to protect our air quality from out-of-state dirty diesel, our water quality from increased litter, and the sensitive shorelines at Crissy Field and Aquatic Park in the Presidio must be developed by the Planning Department. As an active member of the America's Cup Environmental Council, the Turtle Island Restoration Network is committed to ensuring decades of environmental protections are not overlooked during this massive event planned for our cherished San Francisco Bay. 4 [GEN-3]

Sincerely,

Amy Green
2970 21st St
San Francisco, CA 94110

I-Francis

From: Julia Francis
To: Joy.Navarrete@sfgov.org
Subject: Comments on America's Cup 34 Draft EIR, Case No. 2010.0493E
Date: 08/25/2011 01:01 PM

Ms. Navarrete,

Infinity residents were sent this email today from our Management office regarding the proposed long-term potential for Rincon Point Open Water Basin turning into a permanent marina for mega yachts. If I understand correctly, it will extend deeply into the Bay and run across the entire waterfront that is currently an unobstructed view and a draw for many people to the arrow. While I understand the requirements for hosting a world-class athletic event and its subsequent perks and sacrifices, but Ellison has included a clause in the contract with the City, that opens the possibility of this marina to be permanent. If it's permanent, it will require dredging and a profound disruption of marine life, the cleansing of the tides and obviously, any serenity that remains on this end of the Embarcadero. I am adamantly opposed to this being a permanent fixture. I fully support the race and having this venue in place leading up to the event and through the event, but hope the city stands firm that this is a limited Marina is limited to only support the race and will return to its current state after the race is completed. 1 [AE-2]

Sincerely,

Julia and John Francis

I-Frantz

From: Paul Frantz
To: joy.navarrete@sfgov.org
Subject: Comment on AC34 Draft EIR
Date: 08/24/2011 11:29 AM

I am writing in opposition to the part of the project which opens the door for development of a permanent marina at the Rincon Point Open Water Basin. That area is one of the very few in the downtown area where a heavily- travelled pedestrian thoroughfare runs right along the water with unobstructed Bay views. As such, it serves to connect the city to the Bay and to the surrounding geogiaphy and communities. To eliminate that connection by creating an intervening commercial development, such as a large-boat marina, would be a step backwards toward the isolation between city and Bay that we had when the elevated freeway was still standing. We tore down that freeway at great expense, and we have since reaped the benefits of reconnecting the downtown area with the waterfront. Let's not give up what we have achieved by eliminating the best pedestrian view of the Bay from downtown. 1 [AE-2]

Paul Frantz
524 Duncan St
San Francisco, CA 94131

GROSS LAW
The Embarcadero, Pier 9, Suite 100, San Francisco, CA 94111 t 415.671.4628 f 415.480.6688
www.gross-law.com

RECEIVED
AUG 25 2011
CITY & COUNTY OF S.F.
PLANNING DEPARTMENT
MEA

August 25, 20111

By Hand
Bill Wycko
Environmental Review Officer,
San Francisco Planning Department
1650 Mission Street, Suite 400
San Francisco, CA 94103

Re: Draft Environmental Impact Report for 34th America's Cup And James R. Herman Cruise Terminal And Northeast Warf Plaza

Dear Mr. Wycko,

We are writing to comment on the above referenced draft environmental impact report ("Draft EIR") concerning proposed activities related to the America's Cup And James R. Herman Cruise Terminal And Northeast Warf Plaza ("Proposed Project"), on behalf of the following persons who have retained us to represent them in connection with the Proposed Project: Ernie Koepf, Mathew Ryan, Shawn Divitt, James Phillips, Kevin Marilley, Marci Tarantino, Signe Lindberg, Linda Tarantino, John Tarantino, John Divitt, Geoff Bettencourt, Bradley Newell, John Atkinson, Walter McCarthy, Sean Hodges, Salvatore Papetti, Nancy Papetti, Jim Baumgart, Fred Jaber, and Darryl Pope (collectively, "Clients"). All of my Clients are holders of San Francisco Bay limited entry herring gillnet permits and many are active and substantial harvesters of herring in San Francisco Bay and have been for several decades.

I. My Clients Have A Direct And Substantial Interest In Impacts From The Proposed Project On The San Francisco Bay Fishery

The San Francisco Bay herring fishery is what is known as a limited entry fishery: entry to the fishery is limited to closed set of permit holders. Accordingly, San Francisco Bay herring permits are recognized as the intangible property of their owners. For example, Fish & Game Code § 8104, provides for the vesting of permits in the estate of permit holder at his or her death, Fish & Game Code §§ 8552.2 – 8552.4 and related regulations establish procedures for the permits to be sold or gifted, while other provisions provide a mechanism for the permits to be temporarily leased.

COM-315

GROSS LAW

The value of this property is tied directly to the productivity of the fishery to which the holders of permits have access. Therefore all of my clients have a direct and substantial interest in any element of the Propose Project that may affect the productivity of the San Francisco Bay herring fishery. Those Clients who are also active harvesters of herring in the San Francisco Bay would be additionally and cumulatively affected, in direct and substantial ways, by impacts that decrease the productivity of the fishery.

II. The Draft EIR Inadequately Analyzes The Potential Impacts Of The Proposed Project On The San Francisco Bay Fishery

My Clients are principally concerned with two aspects of the Proposed Project's potential impacts on the San Francisco Bay herring fishery: (1) impacts that could negatively affect the health and productivity of the San Francisco Bay herring stock; and (2) impacts that could result in temporary and/or permanent loss of access to fishing grounds that have historically been the most productive in San Francisco Bay. The Draft EIR fails to adequately address either concern.

A. The Draft EIR Does Not Adequately Analyze The Impact Of The Project On San Francisco Bay Herring Stock

Foundationally, it is important to understand that the San Francisco Bay herring fishery is a roe fishery, meaning that herring are caught for their eggs. Thus, fishing grounds for herring fishermen are herring spawning grounds. Moreover, herring generally return to spawn in the location where they were hatched.

In the San Francisco Bay, over the last thirty plus years, the shoreline South of the Ferry Building, particularly, in the vicinity of Piers 26, 28 and 30/32 and extending South to Piers 56 and 80, has consistently seen the largest herring spawns anywhere in the Bay. This, in turn, has meant that this area has consistently been the most important fishing grounds for San Francisco Bay herring fishermen. Indeed, during the 1980s, close to 100% of the herring caught in the Bay were caught in Southern SF Piers, and in the last three years, approximately 50% of the herring caught in the Bay were caught in the Southern SF Piers. 1 [BIM-3b]

The herring population has always chosen this area to spawn. Historically, California Department of Fish & Game ("DFG") data from 1981 to present identifies the herring spawns that have occurred in the piers. (During the entire decade of the 80's, the San Francisco waterfront south of the Bay Bridge was the most chosen by the herring resource).

In the aftermath of the Cosco Busan oil spill of November 7, 2007, this area has taken on an increased importance as both fishing grounds and spawning grounds. As you may be aware, DFG canceled the herring fishing season in the Bay in 2010 because of

concerns regarding the spill's impact and low population levels in previous seasons. In 2011, there was an encouraging resurgence in population levels; however, this resurgence was concentrated in areas South of the Ferry Building. Anecdotally, the resurgence in that area was accompanied by decreased spawning activity by herring in the other areas of the Bay where the shoreline had been oiled by the spill.

The areas sighted for development south of the Ferry Building are greatly responsible for the recent surge in the herring population in San Francisco Bay. Piers 26 through 32, McCovey Cove and Piers 56 south to pier 80 were integral spawn sites for herring in this recent rebound.

The Draft EIR fails in its analysis of the Proposed Project's potential impact on this important natural resource.

While the Draft EIR identifies the San Francisco Bay's herring stock as an important natural resource, other than a brief mention of herring in a chart concerning noise, there is no further mention of the resource in the section of the document in which the Proposed Project's impact on marine resources are purportedly analyzed and mitigation methods proposed. This absence is particularly glaring in the section titled Impact BI-14, beginning on page 5.14-103, which purports to discuss interference with the movement of native marine or estuarine wildlife species or with established native resident or migratory wildlife corridors or impediment of the use of native wildlife nursery sites. there is no mention at all, let alone analysis, of the impact of the proposed construction or event on herring spawning and rearing. Accordingly, the proposed mitigation measures do nothing to address these impacts. 1 [BIM-3b] cont.

Having identified the San Francisco Bay's herring stock as an important marine resource, which it is, your agency should have engaged in a meaningful examination of the Proposed Project's impact on that resource. It is clear it has not done so. It should be.

When that analysis is done, it must include an update of the information concerning the locations of herring spawning and herring habitat in the San Francisco Bay. It is clear from the Draft EIR that the information on which your agency is currently relying is unreliable. For example, Figiure 5-14.5 on Page 5.14-66 erroneously limits known herring spawning grounds in areas South of the Bay Bridge to those piers immediately South of the Bay Bridge. In fact, the major historical spawning areas extend South as far as Hunter's Point. Indeed, as mentioned above the entirety of the area South from the Ferry Building to Hunter's Point is consistently the location of 50% to even a much greater percentage of total herring spawning activity in San Francisco Bay during a particular season. Furthermore, Figure 5-14.4 which limits known herring rearing grounds to a couple of locations North of the Bay Bridge appears to substantially under estimate where herring conduct rearing activities in the San Francisco Bay. While these inadequacies cannot

completely explain the lack of any meaningful analysis of the Proposed Project's impacts on the San Francisco Bay's herring stock, they undoubtedly have contributed to them 1 [BIM-3b] cont.

B. Draft EIR Does Not Adequately Address, If At All, The Long And Short Term Impacts Of The Proposed Project On Access Of Herring Fishermen To What Are Historically The Most Productive Fishing Grounds In The Bay

My Clients are also very concerned about the potential impacts of the Proposed Project on the access of commercial herring fishermen to the areas South of the Ferry Building as fishing grounds during the periods preceding the Event and immediately following the Event, as well as during the period of any Legacy Leases and any subsequent regattas held in the area by the America's Cup Event Authority.

As mentioned above these areas have historically been the most productive areas for commercial herring fishermen. Indeed, in several years literally 100% of their catch was from these areas. Any restriction on commercial herring fishermen's access to these areas will have a direct and substantial effect on my Clients as holders of San Francisco Bay commercial herring permits and active San Francisco Bay commercial herring harvesters.

We understand that according to the terms of the Host & Venue Agreement, the America's Cup Event Authority is to be provided Long-Term Venue Leases for Piers 26, 28, and 30/32, Short-Term Venue Leases for areas including, but not limited to, the water areas between Piers 28 and 30/32 and between Piers 30/32 and 38, and a Venue Lease for portions of Pier 80. We further understand that the Long and Short Term Venue Leases contemplate granting the America's Cup Event Authority exclusive custody and control over the water areas in the vicinity of the subject piers to the maximum distance allowed by the law and exclusive use and control over a substantial portion of the water area in the vicinity of Pier 80. We moreover understand that the Authority is to be granted Legacy Leases of sixty-six years for Piers 30/32 as well as for Piers 26 and 28, if the Authority performs Additional Work on these piers. Finally, we understand that the America's Cup Event Authority is to be provided long-term leases of marine areas immediately South of the Ferry Building if certain actions are taken by the it. 2 [AE-2]

These are all very important fishing areas for commercial herring fishermen; however, we see nothing the Draft EIR analyzing the potential impacts of the Proposed Project on commercial herring fishermen, and thus my Clients.

My Clients are concerned that during the periods of the Short and Long Term Venue Leases and legacy leases, commercial herring fishermen will be excluded from the water areas covered by these leases. This would greatly decrease the fishing grounds available to holders of San Francisco herring permits, substantially lowering the total catch of the fleet

GROSS LAW

during these periods as well as the value of San Francisco herring permits. Under California law, this would constitute a taking for which permit holders would be entitled to compensation. *See City of Oakland v. Oakland Raiders* (1982) 32 Cal.3d 60, 68 (recognizing that California takings law is applicable to intangible property); *Baldwin Park Redevelopment Agency v. Irving* (1984) 156 Cal.App.3d 428, 439 (requiring that property owner be compensated for the taking of his intangible property). 2 [AE-2] cont.

We note further that while the Draft EIR acknowledges the applicability of the Public Trust obligations to decisions by the City and County of San Francisco and its agencies, including The Port of San Francisco, concerning its use of tidal, subtidal, and other marine areas over which it has been granted jurisdiction, we see nowhere in the Draft EIR any meaningful discussion regarding how those obligations would be fulfilled in the context of the Proposed Project, as to commercial fishing, generally, or commercial herring fishing, specifically. Fishing is among the most well established of Public Trust usages. *See, e.g.,* Public Resources Code § 6009(a); *National Audubon Soc. v. Sup. Court* (1983) 33 Cal.3d 419, 434. However, there is nothing in the Draft EIR suggesting that this use of the Proposed Project's impact on it have been considered. For example, we see nothing in the Draft EIR to suggest that the Legacy Leases would be drafted so that during the terms of these leases fishermen would be guaranteed access to the fishing grounds covered by them. The absence of such a guarantee would subject these leases, whether or not approved by the Lands Commission or Legislature, to legal challenge by fishermen, including my Clients. *See id.* at 441; *Besig v. Friend* (N.D. Cal. 1979) 463 F. Supp. 1053, 1063. 3 [PP-4]

Thank you for considering the foregoing. We look forward to your response to the concerns we have raised.

Sincerely,

STUART G. GROSS

cc: Clients

From: Andrey Gusev
To: Bill.Wycko@sfgov.org; Joy.Navarrete@sfgov.org
Subject: Rincon Point Open Water Basin
Date: 08/25/2011 12:58 PM

Hello Bill, Joy,

As a resident of San Francisco and an owner of condominium in Infinity Project one block away from "Rincon Point Open Water Basin", I would like to expressed my outermost concern and disapproval with proposed plan to make the "Rincon Point Open Water Basin" a permanent commercial marina after the 2013 America's Cup. The open section of water along the Rincon Park offers breathtaking views that are heritage not only of the local residents but also of entire city, the state, and the country. Truly inspiring and and in parts surreal in it's beauty neither of us have the right to exchange those views for commercial gains brought by marina. 1 [AE-2]

I would like to ask you to make the right decision and strictly not allow the plan to make "Rincon Point Open Water Basin" a permanent commercial marina after the 2013 America's Cup to go forward.

Thank you,

Andrey Gusev

I-Hafer

From: Statia Hafer
To: Joy.Navarrete@sfgov.org
Subject: Comments on America's Cup 34 Draft EIR, Case No. 2010.0493E
Date: 08/25/2011 03:13 PM

Hi Joy,

I would like to express my concern on maintaining the Rincon point open water basin as a commercial marina after the 2012 America's cup. That is one of the few stretches of the waterfront in the business area that is open and directly faces an unubstructed view of the water. All other spots have buildings/docks/marina. It is a beautiful view of the bay bridge, treasure island and the other side of the bay. The park area with the seating is gorgeous. The sitting is public as well. That area is a highlight of enjoying the embardcaero and very unique. Adding a permanent commercial marina would take away a unique spot to enjoy the beuty of the bay in this part of the city. The closest option would be the Marina area. 1 [AE-2]

Thank you for considering my opinion.

Statia Hafer

I-Hammer

From: Lawrence Hammer
To: Joy.Navarrete@sfgov.org
Subject: Comments on Americaâ??s Cup 34 Draft EIR, Case No. 2010.0493E
Date: 08/25/2011 11:27 AM

I live at 318 Spear St in The Infinity. I fully support the plan to build out the eastern waterfront in preparation for the America's Cup. The Rincon Point basin would be a fabulous location for a big boat marina. I also support the development of the remaining piers between Pier 40 and Rincon Point. 1 [AE-2]

Sincerely yours,

Lawrence D. Hammer, M. D.
Professor of Pediatrics
Lucile Packard Children's Hospital
Stanford University School of Medicine

770 Welch Road
Suite 100
Palo Alto, CA 94304

650-725-8314
650-498-5684 (fax)

I-Hanft

From: John Hanft
To: joy.navarrete@sfgov.org
Subject: America's Cup EIR
Date: 08/22/2011 05:38 PM

Dear Ms. Navarrete:

I strongly oppose authorizing long term development rights to the Americas' Cup Event Authority in the event of dredging in the Rincon Point and Brannan Street Wharf Open Water Basins. The impact of long term marina development on areas now set aside as open waters would be catastrophic to the ecological and public benefits those open waters were designed to provide. The Host Agreement should be amended to remove any possibility of long term development in those areas. 1 [LU-9]

John Hanft
San Francisco Resident
1414 30th Avenue
San Francisco, CA 94116
415 681-8774
hanft@pacbell.net

I-Hatch

From: Charlotte Hatch & Jim
To: joy.navarrete@sfgov.org
Subject: Rincon Open Water Basin Public Comment
Date: 08/22/2011 01:47 PM

Dear Ms. Navarrete,
My husband and I bought our house in San Francisco in 1967. We have our kids here, and still live here happily. We've seen much development in SF since we moved here. We really like most of it. In fact, our favorite is the waterfront. How beautiful it is, now that the embarcadero freeway has been torn down.

Now, I wish to make a comment on Larry Ellison's plan to put a yacht dock on the Rincon Open Water Basin as a development project leading up to the America's Cup race. As I understand the plan, building a yacht harbor at Rincon might entail dredging, which would open development rights for the Rincon Basin and also the Brannan St. Wharf Open Water Basin just to the south. Both of those open segments of the Bay are such a pleasure for the citizens of SF. I'm very against replacing the docks with yacht harbors. VERY A AINST !

Thank you very much
Sincerely,
Charlotte Hatch

1 [AE-2]

I-Hoppe

From: Ted Hoppe
To: joy.navarrete@sfgov.org
Subject: America cup concerns, protections and environmental impact
Date: 08/24/2011 11:47 AM

Dear Joy Navarrete,

I am concerned about Americas cup plans to displace public access to the San Francisco shoreline to the wealthy yachts and privatize what has been historically been open to multi recreational use. There are many in the local sailing and boating community that supports the America Cup but not to the reduction of long term shoreline access, changes in recreational maritime traffic, and physical changes to the San Francisco waterfront with a clear intent displace the average citizens enjoyment and land access use.

As an active sailor on the bay and lover of the shoreline of San Francisco, I am very concerned that the commercialization, privatizing of the piers and access to the shoreline will deeply affect how local citizens, sailors and visitors use the area. The changes to local policy need to take in to account as well as maintain the public rights of access, use and enjoyment. It would be a disservice to the majority of the population to actively remove access, change the natural bay properties, disturb the direct healthy relationship we have with the living bay. 1 [LU-9]

It is my hope as well as many other San Franciscans and other municipal local maintain ultimate control and access to these wonderful places. We need not surrender our own rights and privileges to a small class of wealthy individuals who interests lie in removing the public rights and access not only to the cup matches but as a long term hold on the some of most beautiful coastline in the San Francisco and bay.

Thank you,

Ted Hoppe
San Francisco, CA

Sent from my iPad

I-Horn

From: Libbie Horn
To: joy.navarrete@sfgov.org
Subject: Aquatic Park swimming during America's Cup
Date: 07/14/2011 04:48 PM

Joy Navarrete
Senior Environmental Planner
San Francisco Planning Department
1650 Mission Street, Suite 400
San Francisco, CA 94103
(415) 575-9040
joy.navarrete@sfgov.org

Ms Navarrete
I would like to express my concerns about certain aspects of the America's Cup race. While I'm excited about it taking place in San Francisco Bay, it will impact me as a regular bay swimmer and member of the Dolphin Swimming and Rowing Club. I believe the areas of impact fall into the recreation, water quality, and transportation categories.

My swimming is confined to Aquatic Park, except for days when there is an organized swim out of the AP Cove. My husband, friends and I live on the Peninsula, so we drive to Aquatic Park. I'm worried about how parking will be impacted during America's Cup. I'm quite concerned about the quality of the water in which we swim, and this includes trash from viewers as well as materials flushed from boats as well as boat engine output. During the next two years we will be training for a big swim, so it will be important that we are able to continue swimming at Aquatic Park. 1 [HY-3, RE-2]

Thank you
Elizabeth Horn
975 Black Mountain Road
Hillsborough CA 94010

I-Illick2

Joe Illick

1015 1/2 Guerrero Street • San Francisco, CA 94110
Tel: (415) 285-9835
illick@sfsu.edu

August 9, 2011

To the San Francisco Planning Commission

For years I have been swimming daily, in San Francisco Bay via the Dolphin Club.

I am alarmed and worried by the America's Cup organizers' EIR draft, which views Aquatic Park as a "spectator venue" and market for yachts, as well as a place to moor yachts. As well as a place for screening the yacht races.

This is not acceptable!

Aquatic Park is for the recreational use of San Franciscans. I want to be assured that it will continue to be. I trust that you will be able to tell me that this is the case. 1 [RE-2]

Joseph E Illick

P.S. Please note that in 2010, the Mayor and the Board of Supervisors in San Francisco proclaimed February 5 as "Joe Illick Day", citing my swimming laps in Aquatic Park

COM-321

I-Innocentin

From: Innocentin, Robert D. - GCIB_sf
To: Joy.Navarrete@sfgov.org
Subject: Comments on Americaâ€™s Cup 34 Draft EIR, Case No. 2010.0493E
Date: 08/25/2011 11:50 AM

I'd like to express my concern over the potential development of a permanent commercial marina at Rincon Point Water Basin. The unobstructed Bay views currently available in the Rincon Point Basin are a distinctive and integral part of the neighborhood fabric. As a nearby home owner, I can personally attest to the enjoyment derived from the Rincon Point views by both locals and tourists, who flock to the area to take photographs with the Bay and Bay bridge. I would urge the committee to take this into consideration and protect a distinctive and critical part of our neighborhood. 1 [AE-2]

This message w/attachments (message) is intended solely for the use of the intended recipient(s) and may contain information that is privileged, confidential or proprietary. If you are not an intended recipient, please notify the sender, and then please delete and destroy all copies and attachments, and be advised that any review or dissemination of, or the taking of any action in reliance on, the information contained in or attached to this message is prohibited.
Unless specifically indicated, this message is not an offer to sell or a solicitation of any investment products or other financial product or service, an official confirmation of any transaction, or an official statement of Sender. Subject to applicable law, Sender may intercept, monitor, review and retain e-communications (EC) traveling through its networks/systems and may produce any such EC to regulators, law enforcement, in litigation and as required by law.
The laws of the country of each sender/recipient may impact the handling of EC, and EC may be archived, supervised and produced in countries other than the country in which you are located. This message cannot be guaranteed to be secure or free of errors or viruses.

References to "Sender" are references to any subsidiary of Bank of America Corporation. Securities and Insurance Products: * Are Not FDIC Insured * Are Not Bank Guaranteed * May Lose Value * Are Not a Bank Deposit * Are Not a Condition to Any Banking Service or Activity * Are Not Insured by Any Federal Government Agency. Attachments that are part of this EC may have additional important disclosures and disclaimers, which you should read. This message is subject to terms available at the following link:
http://www.bankofamerica.com/emaildisclaimer. By messaging with Sender you consent to the foregoing.

I-Intrator

Aug. 18, 2011

To: San Francisco Planning Commission
RE: America's Cup races, 2013

I have a number of reservations about this event:

1) I don't believe enough serious attention has been given to the private development rights given so hastily to Larry Ellison / Oracle. The waterfront is ours, and is part of a Master Plan for Pier / Bay front development to benefit people, not corporations. 1 [IO-5]

2) The Environmental Report should deal with all aspects of nearly two months of daily races in 2013, i.e. garbage; neighborhood encroachment by onlookers; Coit Tower; boaters and ferry-users; aquatic life and organisms of the Bay. 2 [IO-1b]

San Francisco has given away much of its valuable waterfront heritage to an already-rich corporation and its ambitious CEO.
Let's impose the strickest regulations and legal oversight that we can! 3 [GEN-4]

Sincerely (a 31-year resident),
Joan Intrator

Ms. Joan Intrator
3863 25th St.
San Francisco, CA 94114

NATIONAL PARK FOUNDATION

I-Johnson

From: Katina Johnson
To: Bill.Wycko@sfgov.org; Joy.Navarrete@sfgov.org
Subject: America's Cup EIR
Date: 08/24/2011 08:40 AM

To Whom it May Concern,

While I am a supporter of the America's Cup races, I am greatly disturbed by the portions of the AC34 Host Agreement that would allow a permanent marina to be created along the pier. While I can understand that a temporary sacrifice might be necessary in the months prior to the race, allowing what are some of the best views in the city to be given away is simply unacceptable. I strongly encourage you to consider the well-being of ALL San Franciscans and ensure that these views are not taken away from the public. 1 [AE-2]

Sincerely,
Katina Johnson
88 Guy Place
(415) 868-5182

I-Kealey

Maura Kealey
1900 Gough Street Apt. 606
San Francisco, CA 94109
maura.kealey@gmail.com

RECEIVED
AUG 2 - 2011
CITY & COUNTY OF S.F.
PLANNING DEPARTMENT
MEA

August 23, 2011

Bill Wycko, Environmental Review Officer
SF Planning Department
1650 Mission Street Suite 400
San Francisco, CA 94103

RE: Draft EIR - Rincon Point Open Water Basin

Dear Mr. Wycko:

I am writing to oppose the proposal to berth large boats at the Rincon Point Open Water Basin. The waterfront between Piers 14 and 22 and !/2 is unique in San Francisco, because there is nothing between people and the wide-open bay. The bridge looms - awesomely large, but not threatening or noisy. Yerba Buena and Treasure Island are neighbors across the water. There's a unique way that city people can be on the waterfront here - this wide open place in such a prime location! Just walk south from the Ferry Building! - that would be utterly destroyed by this proposal.

The "temporary" provision for berthing race yachts in 2012-2013 would very likely trigger the dredging/development provisions allowing construction of a permanent marina for very large yachts, some 265 feet long. This unique open public space on the Waterfront would be taken from the many - and given to a few rich people and their friends, who from their Barrier Boats would alone enjoy what the rest of us have lost. 1 [AE-2]

There is no way to mitigate the damage from this proposal to the San Francisco environment. Its impact is not just on those who live or work near the open water every day. The loss of this magic open land on the Bay - this prime San Francisco spot that now belongs to all of us - would be irreplaceable.

Therefore, I urge you to reject the proposal to change the San Francisco Waterfront Special Area Plan for the Rincon Point Open Water Basin.

Sincerely,

Maura Kealey

Maura Kealey

I-Krautner

From: sally krautner
To: Joy.Navarrete@sfgov.org
Subject: POSITIVE Comments on America's Cup 34 Draft EIR, Case No. 2010.0493E
Date: 08/25/2011 09:33 AM

Joy,

I am a resident of South Beach (and have been for 15 years) and while I mostly support and admire Jamie Whitaker for his efforts overall, I don't support his targeting the America's Cup as something we have to thwart at every step.

AC won't be perfect but the gains far outweigh the minuses - both short term and long term. I know I'm not the only one that IS NOT in Jamie's corner on this but he has the neighborhood blog going and can garner a lot of "activity". 1 [GEN-4]

Hopefully you'll get more than just my one vote of confidence in what the City is doing with this event - before, during, and after the races themselves.

Regards,

Sally Krautner

I-Launder

From: Bill Wycko
To: Joy Navarrete
Subject: Fw: Comments on America's Cup 34 Draft EIR, Case No. 2010.0493E
Date: 08/24/2011 03:32 PM

----- Forwarded by Bill Wycko/CTYPLN/SFGOV on 08/24/2011 03:32 PM -----

Art Launder
<alaunder@gmail.com>

To Bill.Wycko@sfgov.org
cc

08/24/2011 03:14 PM

Subject Comments on America's Cup 34 Draft EIR, Case No. 2010.0493E

Dear Sir,
I was surprised and outraged to read John King's August 22, 2011 article in the SF Chronicle about changing the waterfront between Piers 14 and 22 1/2 in order to provide better views for wealthy boat owners during the 2013 America's Cup Race. I live adjacent to this venue, and my family and I and many other people who live near or visit this area have enjoyed the unobstructed views of the Bay and Bay Bridge from this vantage point. I would like to go on record as strongly opposed to this plan and hope the authorities in charge reject this or any other plan that materially alters this beautiful waterfront. 1 [AE-2]
Sincerely,
Arthur Launder
301 Main St., 34A
San Francisco, CA 94105

COM-324

I-Lauder-Walker

From: Bill Wycko
To: Joy Navarrete
Subject: Fw: Comments on America's Cup 34 Draft EIR, Case No. 2010.0493E
Date: 08/25/2011 10:05 AM

----- Forwarded by Bill Wycko/CTYPLN/SFGOV on 08/25/2011 10:06 AM -----

David Lauder-Walker
<dkirkw@dkirkw.com>

To Bill.Wycko@sfgov.org
cc

08/24/2011 08:32 PM

Subject Comments on America's Cup 34 Draft EIR, Case No. 2010.0493E

I'm writing to voice my objection to turning Rincon Point Open Water Basin into a permanent commercial marina after the 2013 America's Cup.

The open water and view is one of the cornerstones of the public space in this area, and a major draw for the public and tourists. Epic Roasthouse, WaterBar, and many other restaurants and businesses are here primarily because of this view and space. Losing this would have a negative effect on these and any future businesses, and the investment and development that will bring more use and revenues to the city and public. 1 [AE-2]

Turning what is now a beautiful view and expanse into a view of ship hulls and masts, with fences, traffic, and other waste created by these ships for the sole use of privileged few would add nothing to the city, the public, or the tourists we rely on for jobs and revenues. The bay and it's views should be protected for all to enjoy.

David Lauder-Walker
dkirkw@dkirkw.com
http://www.dkirkw.com

I-Lee

From: Felicia Lee
To: Joy.Navarrete@sfgov.org
Subject: Comments on America's Cup 34 Draft EIR, Case No. 2010.0493E
Date: 08/24/2011 09:24 PM

Hello,
I am a resident in the Infinity and moved to this neighborhood to enjoy the beauty and tranquility of the Rincon Point Open Basin.

I am highly opposed to the potential development of a commercial marina. I will do whatever needed to have my voice and vote heard on this matter. I hope you will prevent this from happening and protect this rare stretch of unspoiled bay. [1 AE-2]

Felicia Lee
Sent from my iPad

I-Leighton

From: Ralph Leighton a.k.a. Herr Doktor Schulbitter
To: Joy.Navarrete@sfgov.org
Cc: Bill.Wycko@sfgov.org
Subject: Comments on America's Cup 34 Draft EIR, Case No. 2010.0493E
Date: 08/24/2011 07:04 PM

Greetings,

I am alarmed by the possibility that the temporary marina in the sailing world cup could be made permanent. While it is nice to look at it for a while, I much prefer the sweeping bay vista that is currently available to all in SF and visitors to San Francisco to enjoy. Please preserve our waterfront views as much as possible! [1 AE-2]

Thank you,

Ralph Leighton
338 Spear St # 17-A
San Francisco CA 94105

I-Litwin

Memento Press
PERSONAL DESIGN FOR YOUR PHOTOS

RECEIVED
AUG 2 3 2011
CITY & COUNTY OF S.F.
PLANNING DEPARTMENT
MEA

Environmental Review Officer
1650 Mission Street, Suite 400
San Francisco, CA 9410

August 22, 2011

Sir or Madam:

The proposed construction and operation of the AC34 facility is **totally unacceptable** to me as a San Francisco resident of 16 years, raising two children here, nor as the owner of a growing, independent business, located near Union Square, for seven years.

The view from the walkway adjacent to the Rincon Point Open Water Basin is critical to the attractiveness of that walk. Literally thousands of San Franciscans as well as tourists enjoy this spectacular view every day. It provides enjoyment to our family almost every weekend. We know many other families and friends who love this walk, and the view from it.

It calls into question the very honesty of the EIR to have the obstruction of this view, for two years at a minimum, and perhaps forever, considered *less than significant.*

From first paragraph 5.3 – 35 of EIR:

As these proposed installations would be in place only during the two-year period of the race events, obstructions of public views of scenic vistas of the Bay would be temporary and replaced with views of AC34 race-related and spectator vessels during the period before, during, and after the race events. Therefore, the AC34 events would not generate a substantial adverse effect on scenic vistas, and this impact would be *less than significant.*

1 [AE-2]

Once the view is blocked, and the mega-yacht marina is built, the forces to retain it could easily be stronger than the forces to remove it. It cannot be built in the first place.

I am an avid sailor. I have crewed on racing yachts in the bay, including acting as tactician for years in the very competitive J-105 class. I was a varsity sailor in college. The water is a major passion for me, and I'm thrilled at the prospect of the America's Cup coming to San Francisco.

This should add weight to my utter dismay at the thought of staring at the transoms of mega-yachts, for the rest of time, on that beautiful walk. A decision to build the AC34 facility will be of similar wisdom and effect as the decision to build the Embarcadero Freeway. Please do not be remembered as the decision-makers who chose short-term gain, at the expense of generations of San Franciscans to come.

Sincerely,

Joshua J. Litwin

COM-326

I-Marchesani

From: Cynthia Marchesani
To: joy.navarrete@sfgov.org
Subject: AC34 Draft EIR Comment
Date: 08/24/2011 11:40 PM

Hello,

I am a resident of San Francisco and want to comment on the draft EIR for the Americas Cup event.

I attended the public hearing on August 11 at the Planning Commission in City Hall, and I have read part of the draft EIR. I am very concerned about the lack of detail and specificity in the draft EIR as regards Chapter 5, especially as regards recreation, public access to heretofore publicly accessible areas along the waterfront and environmental impacts.

1 [PD-7, RE-10]

One example: The area in and around Aquatic Park is already congested and served by overcrowded public transportation. Adding cars to the F line will not, in my opinion, be sufficient. And I do not believe the proposed "E" line will be ready and available for use for either year of the event. Further, the "lagoon" at Aquatic Park is used every day by hundreds of swimmers and boaters, and there is no other area along the San Francisco waterfront (from the Pacific Ocean all the way to the southeastern most section of the shoreline) which is comparable for swimmers and boaters. There is no other area along this span that is "safe" for swimmers. Berthing visitors' and other boats there, along with placing a viewing screen on a floating barge, will have many environmental and public access impacts not identified in the draft EIR. Using Aquatic Park as a secondary viewing area is not compatible with the current uses of the park.

2 [RE-2, TR-4a]

3 [RE-2]

Another example: Closing or limiting access to the northbound lane of The Embarcadero impacts not only traffic and access for residents and visitors, it severely impacts businesses with locations on The Embarcadero. I did not see sufficient mitigation plans for business interruption.

4 [TR-3d]

There are many more areas of concern for me, but my general comment is that the draft EIR is in no way adequate even as a draft. There are far too many details missing as regards impacts (across the spectrum but especially environmental) and their mitigation. I hope that the comments of the Environmental Council along with those of the public will be incorporated into the next iteration of the EIR. I also hope to see the referenced plans (e.g. People Plan, Traffic Plan, etc.).

5 [PD-7]

I do hope we do not regret hosing this event and that we identify, plan for, and mitigate these issues before they become problems.

Thank you for your efforts on behalf of the city of San Francisco.

Sincerely yours,

Cynthia Marchesani
1441 Taylor St. #102
San Francisco, CA 94133

I-McGreevy

From: michael mcgreevy
To: joy.navarrete@sfgov.org
Subject: NO Yacht Fotilla along The Embarcadero Waterway
Date: 08/22/2011 04:30 PM

Dear Ms. Navarrete,

I stand with all who oppose the proposal to allow yachts to moore temporarily or permanently in any open water along The Embarcadero from the Ferry Building to Pier 40.

All such behemoths should park off of Pier 50 and further south.

I want full and open hearing to this issue.

Do not surrender to Ellison. The bay and the views of the bay belong to all of us, not just the rich.

1 [AE-2]

Thank you.

Sincerely,

michael mcgreevy

michael mcgreevy
88 King Street, Suite 1004
San Francisco, CA 94107
415-904-1004

I-Mchenry

1122-D Reeves Court, Treasure Island
San Francisco, CA 94130
(415) 575-2196 day
(415) 627-6935 evening
amchenry@sfgoodwill.org

RECEIVED
AUG 1 2011
CITY & COUNTY OF S.F.
PLANNING DEPARTMENT
M.E.A.

August 11, 2011

ATTN: Environmental Review Officer
1650 Mission Street, Suite 400
San Francisco, CA 94103

To Whom It May Concern:

I attended the hearing today at City Hall in Room 400 and I had to leave before I could speak, so I must write to you with my opinion of the proposed plans for the America's Cup impact on Aquatic Park and the recreational use. I have not read the environmental impact report; however, I have read many communiqués and synopses from people I trust, and feel that I have a pretty good idea of what it contains.

I joined the Dolphin Club Swimming and Boating Club in June of 2010 and as soon as I joined, I knew I was "home." This is a place I will go to as long as I live in San Francisco. It's in my heart. It is an incredibly special place that has been there for decades, alongside the South End Swimming and Boating Club. The people I run into every time I go, which is frequently (3 or 4 times a week and I wish it could be daily) are to me, the pillars of San Francisco Society. Their collective experience, wisdom and education is impressive, and you could not find a finer group of people anywhere.

These two clubs have events and gatherings that pull people from all walks of life together into a huge, loving family. There is something there for everyone and new people are welcomed and feel very welcome. The main activities may be around swimming and boating, but that is just the tip of the iceberg for what these clubs offer and give back to the community.

Please, please, please do not put a jumbotron in the water in Aquatic Park. Why on earth would you ruin the ambiance and a view like that with a giant TV screen? Please do not allow motorized boats in our swimming lanes. That would be dangerous and polluting. Please do not clog the area with vehicles, or take away our ability to access the clubs and the water. Please – really – consider the impact on the sea life and the thousands of people who use that area for recreation. Change is inevitable, I know, and I want the America's Cup to be successful, but leave Aquatic Park out of it. I know you stand to make millions and maybe billions of dollars on the America's Cup, but please don't ruin this San Francisco Institution in the process. Review the EIR with an eye towards minimal to zero impact on the recreational use and environmental health of our lovely Aquatic Park. Thank you. 1 [GEN-4, RE-2]

Sincerely,

A McHenry

Andrea Mchenry

I-McKennaB

From: Brendan McKenna
To: joy.navarrete@sfgov.org
Subject: Not happy about the use of Aquatic Parks dedicated swim area for this proposed Americas Cup Showcase
Date: 07/18/2011 04:57 PM

Please put my name on the list in opposition to this plan. 1 [GEN-4]

Thank you,

Brendan

415-843-1622

AuburnCom Technology Consulting
660 Alabama Street
San Francisco
CA 94110

I-McKennaJ

From: Bill Wycko
To: Joy Navarrete
Subject: Fw: Comments on America's Cup 34 Draft EIR, Case No. 2010.0493E
Date: 08/24/2011 11:07 AM

----- Forwarded by Bill Wycko/CTYPLN/SFGOV on 08/24/2011 11:07 AM -----

Jeffrey McKenna
<jwmckenna@earthlink.net>

08/24/2011 10:33 AM

To Bill.Wycko@sfgov.org
cc
Subject Comments on America's Cup 34 Draft EIR, Case No. 2010.0493E

Mr. Wycko,
As a resident and homeowner in the Rincon Hill neighborhood, I am deeply troubled by plans to allow a permanent large yacht marina along the Embarcadero in front of the bow and arrow sculpture. With all the under developed areas along the Embarcadero, it seems silly to take what is already one of most beautiful parts (and one of the parts actually enjoyed/used by city residents) and further develop it in such a way as to make it less attractive and useful for the community. If San Francisco needs to building a large yacht Marina, that's fine, but it should be built just south of the Bay Bridge along one of the totally undeveloped piers south of the bridge between the bridge and AT&T Park. Even a temporary large yacht Marina at the currently planned location would be very undesirable... but a permanent one is simply unacceptable. We should be using this event as an opportunity to develop the neglected parts of our waterfront, not to ruin the parts that are already nice and in regular use by residents such as myself and my wife. 1 [AE-2]

Best regards,
Jeffrey McKenna

425 1st Street, Unit 1808
San Francisco, CA 94105

I-Moore

From: John P F Moore
To: jov.navarrete@sfgov.org
Subject: Floating docks in rincon park
Date: 08/24/2011 11:38 PM

Dear Ms. Navarette,

I wish to state my objection to the installation of a filoating dock in the open water along Rincon Park as requested by the organizers of the 34th America's Cup. Even more important, I wish to also state my objection to the host agreement between the city and the event authority that would allow long term development rights in Bay waters should any dredging be required by the installation of the docks. After finally opening up views to our beautiful bay by removing the freeway and creating the walkways that make these views accessible to our citizens and visitors to this area, it would be a travesty to have this kind of development take any of that away either in the short or long term. 1 [AE-2]

I was just out walking along this stretch of un obstructed viewsbof the bridge and treasure island. And it truely is jewel that should be sages by all.

Please convey my objections to the members of the San Francisco City Planning Department.

Thank you for your kind attention to this matter.

Sincerely,
John Patrick Moore

2 Clarence place , unit 18
San Francisco, ca
94107

Sent from my iPhone

COM-329

I-Nardil

From: Robert Nardil
To: Jov.Navarrete@sfgov.org
Subject: Comments
Date: 08/24/2011 09:46 PM

Hello.

I would like to express my displeasure and opposition regarding allowing Larry Ellison and organizers of the high-profile regatta turning The Embarcadero into a parking lot! People will come from all over the world to see the race and this would block the view. This is the only open space that is truly for all to enjoy no matter your economic standing. 1 [AE-2]

Nor does the imposition end there. If the basin alongside Rincon Park requires dredging to accommodate a class of ships where size most emphatically matters, regatta organizers have the option to turn the basin into a commercial marina. Today's wide-open views might never return! 2 [AE-2]

Thank you for your time.

Regards,

Robert Nardil

I-Newton

From: Scott Newton
To: joy.navarrete@sfgov.org
Subject: Please preserve Rincon Basin views after Cup Event
Date: 08/22/2011 10:18 AM

Good Morning,

Just read the John King column in today's Chronicle and I am concerned about a chain of events that might lead to the open views of the Rincon Basin being threatened after the America's Cup event. I urge you to consider the public interest in preserving these views, and to reflect in your report the scenario which might lead to the construction of a marina on this site after the America's Cup event. 1 [AE-2]

J. Scott Newton
San Francisco, CA

I-Ortiz

From: giorgia.ortiz
To: joy.navarrete@sfgov.org
Subject: No to the marina!
Date: 08/25/2011 08:58 AM

Dear Ms. Navarret,

As a resident and Board Member of the Hills Plaza Community (75 Folsom), I am writing to express my strong opposition to the proposed marina in front of our homes. The building of the two restaurants (Water Bar and Epic) already substantially reduced the open view and public space. As a city dweller, we have very few open spaces and parks to enjoy in San Francisco. Especially in this part of the city. The Bay is our backyard and should be protected. From our point of view, less is more. Just because there is open space does not mean it should be filled in.

Marinas are dirty and cluttered by nature and would ruin the pristine, natural aspect of this small but important section of the embarcadero. We have so few open spaces to enjoy. 1 [AE-2]

Please don't take this away from our community.

Kind regards,

Giorgia Ortiz
75 Folsom St. unit 1001
415-623-8348

I-Osumi

SHIRLEY KIYOKO OSUMI

RECEIVED

AUG 2 4 2011

CITY & COUNTY OF S.F.
PLANNING DEPARTMENT
MEA

August 22, 2011

San Francisco Planning Department
1650 Mission Street Suite 400
San Francisco, California 94103

Attn: Environmental Review Offficer
Re: DEIR for 34th America's Cup

I register my concern and opposition to the creation of a temporary berthing area within the Rincon Point Open Water Basin. Anything permanent for the future would also and more vehemently be opposed.

The visual blockage of open water, sewage and waste fouling the visible promenade waters and not integrating the berthing adjacent to Cup activities make this plan untenable. The water surges in this area are also not conducive to berthing.

I remain vigilant and hopeful that this plan is not implemented.

1 [AE-2]

Very truly yours,

Shirley Kiyoko Osumi

1045 SANSOME STREET · SAN FRANCISCO 94111 · 415/956/3658

COM-331

I-Owen

From: Duncan Owen
To: Joy.Navarrete@sfgov.org
Subject: Comments on America's Cup 34 Draft EIR, Case No. 2010.0493E
Date: 08/27/2011 08:21 AM

Joy,

We were told this is where we could provide feedback on the proposed marina in the Rincon Point Open Water Basin.

My wife and I live in the Infinity on the 24th floor of 338 Spear -- with a full view of the proposed marina basin area and the bay bridge.

In general, we would support a permanent marina in this basin -- but only under certain conditions. It would be optimum if after the AC34 it were clean, well-run, and affordable small boat (<50 ft slip) marina with charter sail and power boats, kayaks, wind-surfers, stand-up paddle boards, etc -- to rent -- as it would provide a recreational base for locals (vs. a mega-yacht-only marina). It might also be nice to someday have the option to put a small boat there without the 9-year wait for South Beach Marina.

However, from a practical point of view, without a breakwater, parking, and shore facilities, it would likely make it a poor choice for a long-term marina. If it were ever dredged, a decent seawall built, and most of the facilities located on a permanent pier or breakwater -- it might be a nice small marina. But the small size, along with seawall or dredging costs, would likely not provide a return for investors. Also, with all that extra work, it might not make it past an environmental review.

Bottom line, we would support it, but only if there is a benefit that makes bay-related recreation accessible to the car-free (e.g. no parking required) local. Otherwise, leave it up for a few years after the AC34, let the megayachts use it, and the minute it starts to look shabby or go unused, take all traces of it away.

1 [AE-2]

Thanks for listening.

Duncan Owen
338 Spear St, 24C
San Francisco, CA 94105

I-Parsons

From: Bill Wycko
To: Joy Navarrete
Subject: Fw: Comments on America's Cup 34 Draft EIR, Case No. 2010.0493E
Date: 08/25/2011 02:01 PM

----- Forwarded by Bill Wycko/CTYPLN/SFGOV on 08/25/2011 02:02 PM -----

JAMES PARSONS
<jspii@comcast.net>

08/25/2011 12:35 PM

To Bill.Wycko@sfgov.org
cc
Subject Comments on America's Cup 34 Draft EIR, Case No. 2010.0493E

I am a home owner at the Infinity Towers at 301 Main St. I am also a boater and a very big supporter of the cities America's Cup project. As such, I am fine with the Rincon Point Open Water Basin being used for a temporary marina during the months leading up to the races (even though my boat is about 80' too small to match the smallest berth…). 1 [AE-2] However the temporary marina approval (dredging or not) should not allow anyone to create a permanent marina in this very beautiful open space - open both on the embarcadero and visually open looking across the bay. Developments of marinas - like the south beach marina work best when they are setup in conjunction with other high traffic / high intensity activities (the ball park) - this both focuses the disruption as well as making it easier to create and share the necessary infrastructure (e.g. parking and bathrooms). This would not be the situation at the Rincon Point Open Water Basin area. 2 [AE-2]

thank you for the opportunity to voice my opinion.

J PARSONS
jspii@comcast.net

COM-332

I-Paul

August 25, 2011

Bill Wycko, Environmental Review Officer
San Francisco Planning Department
1650 Mission Street, Suite 400
San Francisco, CA 94103

Re: Comments to Draft Environmental Impact Report - The 34th America's Cup Races and James R. Herman Cruise Terminal and Northeast Wharf Plaza (SF Planning Case No. 2010.0493E)

Dear Mr. Wycko,

A few months ago, I attended a two-part public forum on the Port of San Francisco that was held at the SF Art Institute. Sponsored by the Telegraph Hill Dwellers, the first part of the program focused on the history of the Port and the second half of the discussion focused on contemporary issues such as the upcoming America's Cup.

During the discussion period that followed, I asked the Port representatives present if, as part of the environmental review for the America's Cup, there would be a comprehensive analysis (with maps) of all the known construction projects currently underway downtown (e.g. Transbay Terminal) as well as those expected to be underway by 2012/2013 (e.g. Cable Car line rebuild). Without such an analysis, I said, city officials would not have the ability to identify and mitigate potential construction-related conflicts, including delaying or disapproving upcoming projects that cannot be effectively mitigated. I was told at the time that this information would be included in the Draft EIR (DEIR).

THE AMERICA'S CUP DEIR HAS SIGNIFICANT FLAWS IN ITS CUMULATIVE IMPACT ANALYSIS INCLUDING MAJOR INNACURACIES, OMISSIONS & MISLEADING DATA

While I've looked throughout the DEIR for this analysis of nearby construction projects that could interfere with America's Cup construction and operations activities—as well as proposed mitigations to address this problem—I have not be able to find any serious discussion of this critical issue. Nor did I find any of the maps that would go with this kind of analysis. These omissions are made even more problematic by the legal requirements put on the City by the *America's Cup Host and Venue Agreement* that states: 01 [IO-6]

> Section *10.4: The City will use all lawful means to restrict noise and debris generating activities on public works and large private construction projects (if any) in areas reasonably proximate to the Event during America's Cup World Series Pre-regattas and the Regatta.*

How can the City comply with Section 10.4 if it doesn't have an accurate list of the projects that could generate the noise and debris that must be mitigated?

The DEIR does talk about the impacts America's Cup construction activities could have on adjacent neighborhoods, but does not discuss how the construction and operation of the America's Cup itself will be impacted by existing or soon to begin construction projects in the downtown and waterfront areas and how these other projects add to cumulative impacts in the aggregate.

When I first came upon them, I thought **Table 5.1-4**: "Short-Term Development Projects that Could Contribute to Cumulative Impacts" and **Table 5.1-5**: "Long-Term Development Projects that Could Contribute to Cumulative Impacts" were going to address this issue but they didn't. I think the gross inaccuracies in these charts help explain the DEIR's failure to address these important cumulative environmental issues in the following ways.

01 [IO-6] cont.

There is very little analysis provided for the long-term development projects listed on Table 5.1-4, ones defined as projects "with a planning horizon of 2035". But it turns out there are projects on the Long-Term list that clearly belong on the Short-Term list and vice versa, throwing much of an already inadequate analysis into serious question.

Mistake #1: The **8 Washington/SWL 351 Project** had a DEIR publication date of June 15, 2011, a DEIR public hearing on July 21, 2011 and a comment period from June 15, 2011 to August 15 2011. These milestones all predate those of the America's Cup DEIR. Had the authors of this DEIR read the 8 Washington DEIR, they would have known that 8 Washington has a projected construction timeline of "27-29 months" from "2012 to 2014". The seven-month excavation period, in which 110,000 cubic yards of soil will be removed from the site via 9,166 dump trucks driving on The Embarcadero, will clearly take place in 2012-2013 (see discussion below).

In light of this information how can the America's Cup DEIR possibly consider 8 Washington to be a "Long-Term Development Project" for the purposes of its cumulative analysis? Projects don't get much more Near-Term than this.

02 [IO-6]

Page 5.1.13 of the America's Cup DEIR defines Near-Term as follows:

> *"In general, for the purpose of this EIR, the analysis employs the list□based approach to identify cumulative effects associated with near□term projects that could contribute to cumulative impacts during the construction and operations of the AC34 facilities and events".*

On the same page, Long-Term is defined as:

> *"In addition to the near-term cumulative impacts, this EIR considers cumulative impacts associated with the potential long-term development with a planning horizon of 2035 that could contribute to cumulative impacts associated with long-term operation of the James R. Herman Cruise Terminal and Northeast Wharf Plaza and development options under the AC34 Host Agreement. The basis for the long-term cumulative analysis is based mainly on economic forecast derived from the Association of Bay Area Governments' forecasts and Metropolitan Transportation Commission regional transportation forecasts. The long-term cumulative analysis applies mainly to the transportation and circulation impacts."*

Mistake #2: The DEIR's Near-Term chart lists **Pier 70** as a Near-Term project, a project that in all probability will not have a Draft EIR out before the America's Cup race in 2013. It's unlikely to have completed environmental review and project approvals in less than five years with construction beginning several years after.

03 [IO-6]

Knowing this, why is Pier 70 a Near-Term project and 8 Washington a Long-Term project?

Mistake #3: A Near-Term project in Sausalito is NOT near-term. Shown as Sausalito Harbor Improvements (Sausalito Harbor Improvement Project), it's "a new City harbor in front of Gabrielson Park including a new 20-foot wide stone seawall to accommodate 50-70 boats" at a cost $20-25 million. The pet project of a few local architects and wealthy yachtsmen, it's suppose to be funded by a $20 million grant from the Dept. of Homeland Security as an 'evacuation site' for Marin. No one in Sausalito takes this "Near-Term" project seriously, not even as a "Long-Term" project.

04 [IO-6]

What other mistakes (other than the three mentioned above) have been made in listing projects as either Near-Term or Long-Term?

How can the DEIR accurately analyze issues such as traffic circulation and transit issues (and conflicts) without accurate baseline data on what other projects will be under construction at the same time as the America's Cup?

05 [IO-6]

I. THE DEIR IS INACCURATE AND MISLEADING IN ITS ANALYSIS OF CUMULATIVE IMPACTS ON TRANSPORTATION, AIR QUALITY AND OTHER ISSUES AS A RESULT OF ITS LACK OF SPECIFIC ANALYSIS OF PROJECTS SUCH AS 8 WASHINGTON.

The absence of one particular project, **8 Washington/SWL 351**, from any analysis in the America's Cup DEIR, is particularly troubling given that even a casual read of the 8 Washington DEIR, out for comment from June 15, 2011 thru August 15, 2011, would've demonstrated the need for greater scrutiny of it in the America's Cup DEIR.

Comments submitted earlier on the 8 Washington DEIR clearly prove that that it was inaccurate in predicting that 8 Washington's sponsors could remove 110,000 cubic yards of soil from the site in just seven months. As we'll demonstrate below, it will take 22 months to remove this soil, not seven...**THAT'S 22 MONTHS WITH 9,166 DUMP TRUCKS DRIVING ON THE EMBARCADERO AT THE EXACT SAME TIME THE 2012 AND 2013 AMERICA'S CUP RACES ARE TAKING PLACE.** Why is there NO mention of this in the America's Cup DEIR? The following section speaks to the significant impacts 8 Washington will have on America's Cup operations.

06 [IO-6]

A. The DEIR construction schedule for 8 Washington is inaccurate and misleading.

The construction schedule set forth in the 8 Washington DEIR is based on overly optimistic assumptions that are totally unrealistic. The ramifications of these

erroneous assumptions need to be carefully considered in the 8 Washington DEIR and the America's Cup DEIR, as they will cascade throughout both projects requiring major revisions to these DEIRs before they can be considered accurate or complete.

At the bottom of page II.19 of the 8 Washington DEIR it states:

> *Project construction, including demolitions, site and foundation work, construction of the parking garage, and construction of the buildings, would take 27-29 months. Assuming that construction would begin in 2012, the buildings would be ready for occupancy in 2014. The first phase of the construction would take about 16 months and would include demolition (2 months), excavation and shoring (7 months), and foundation and below grade construction work (7 months).*

While the DEIR unequivocally states the project will take **27-29 months** to construct, **from 2012 to 2014**, facts provided elsewhere in the DEIR together with current city policies, the city's *America's Cup Host and Venue Agreement* and basic math indicate that this schedule is **not** tenable. The remainder of this section provides the data and analysis that lead to the conclusion that construction of 8 Washington will take much longer than 27-29 months, **TWICE AS LONG**, with the excavation phase, the one that impacts the America's Cup operations the most, taking **2.5 to 3 TIMES LONGER**.

06 [IO-6] cont.

Table 1: Required Changes to 8 Washington construction schedule

ACTIVITY	MINIMUM		MAXIMUM
DEIR's construction schedule:	**27 months**	to	**29 months**
Actual excavation schedule:	**18 months**		**22 months**
-- DEIR estimate for excavation	- 7 months		- 7 months
+ Increased excavation time	**11 months**	to	**15 months**
+ Archeology delays	**.5 months**	to	**2 months**
+ America's Cup delays	**2.5 months**	to	**5 months**
+ Weather delays	**.25 months**	to	**1 months**
ACTUAL CONSTRUCTION TIME	**41 months**	to	**52 months**

To refute the numbers in Table 1, 8 Washington sponsors must present verifiable data supporting their unrealistic assumptions, beginning with the claim that the first phase of construction takes 16 months with a mere seven months for excavation/shoring.

B. The DEIR fails to accurately ascertain and analyze the excavation/shoring schedule.

07 [IO-6]

The 8 Washington DEIR states on page II.20 that "approximately 110,000 cubic yards of soil" will be excavated from the site for an underground garage (approx. 90,000 cubic yards) and other foundation work during the seven (7) month "excavation" portion of the projected timeline. It later states excavation will take place 6.5 hours/day with an average of 20 truck trips/day (pg.IV.D.31). Assuming the average dump truck holds 12 cubic yards of dirt (typical dump truck payload) that would mean:

COM-334

- **110,000 cu. yards/12 cubic yards per truck = 9,166 truck trips**
- **20 trucks/day X 12 cubic yards/trip = an average of 240 cu. yards/day**
- **110,000 cu. yards/240 cu. yards per day = 458 working days for this task**

Could this task be completed in seven (7) months as claimed in the DEIR? NO.

- **5 working days per week X 52 weeks = 260 working days per year**
  - 11 holidays per year
  249 total working days/year
- **458 days to finish task/249 working days per year = 22 months[1] (not 7)**

07 [IO-6] cont.

For this to take 7 months as the DEIR asserts, the following would have to be true:

- **20 trucks/day X 7 months (145 working days[2]) = 2,900 total truck trips[3]**
- **110,000 cu. yards/2,900 trucks = each truck must average 38 cubic yards/trip**

Empirical evidence exists, however, proving that claims in the 8 Washington DEIR that the excavation will take seven months are both inaccurate and misleading:

CASE STUDY #1: San Francisco General Hospital Rebuild Project

A recent SF General Hospital (SFGH) *Newsletter* reports the hospital's contractor just finished hauling 120,000 cu. yards of dirt from the 45' deep hole that was dug to build two basement levels and the foundation for a new hospital building. This is as close as anyone is likely to get to replicating what 8 Washington proposes, a three level 40' deep underground garage accounting for most of the 110,000 cubic yards of dirt that must be removed from the site.

A call to the *SFGH Rebuild* office revealed their excavation process took seven (7) months with an average truck load of 13 cu. yards per trip. How was that possible?

> *"The average truck load was 13 cubic yards. Some days we had* ***over 300 truck loads hauled in one day****. This volume was possible through use of a paved drive that allowed trucks to enter the side, be loaded up then tires washed to prevent dirt on road causing storm-water pollution and dust."*[4]

08 [IO-6]

The SF General site is just a few blocks from U.S. 101 with direct access via Potrero Ave., thus minimizing potential traffic conflicts. The 8 Washington site will require driving long distances on city streets including "The Embarcadero, Harrison Street, and King Street... likely the primary haul and access routes to and from I-80, U.S. 101, and I-280 (pg. IV.D.31)." Imagine 300 trips a day on one of these streets.

[1] This rather conservative number assumes no weather, archeological or America's Cup delays.
[2] 4.33 weeks/mo. X 5 days/week = 151.5 days in 7 months – 6.5 holidays [11days X 7/12's] = 145 days.
[3] As opposed to *110,000 cu. yds./12 cu. yards per truck trip which equals* ***9,166 truck trips.***
[4] Source: July 28th email from Tristan Cook, SFGH Rebuild Public Relations Director.

CASE STUDY #2: SF PUC's New Hetch Hetchy Reservoir Tunnel

A recent *Oakland Tribune* story (4/8/11) describes construction of a new 3.5-mile tunnel designed to protect the water supply from SF's Hetch Hetchy reservoir from major earthquakes by boring a 2nd, state-of-the-art tunnel from Sunol to Fremont alongside the existing 81-year-old Irvington Tunnel. The article states:

> *"By the time the New Irvington Tunnel is completed in 2014, crews will have excavated about 734,000 cubic yards of material—the equivalent of 61,000 dump-truck trips, said officials with the SF Public Utilities Commission."*

Dividing **734,000 cubic yards** of soil by the **61,000 dump truck trips** that the PUC says are necessary equals **12 cubic yards per truck trip**. Given this job's overall size and $227 million budget, it would seem to confirm the fact that the most efficient excavation equipment for the 8 Washington site will be 12 cubic yard dump trucks.

In light of these facts and the analysis provided above, the only way 8 Washington could meet its proposed seven (7) month excavation schedule would be to:

a) schedule up to 300 TRUCK TRIPS A DAY, over **10 TIMES** the average number of trips per day (20) stated in the DEIR and **3 TIMES** the absolute maximum of 100 truck trips per day (pg. IV.D.31)[5] along the Northeast Embarcadero during a period of time that directly overlaps with the major America's Cup events and activities, something specifically prohibited by the City's *America's Cup Host and Venue Agreement*[6],

OR

b) average 38 cubic yards of dirt per truck trip, **3 TIMES** the average truck payload of both the PUC's Irvington Tunnel project and SF General Hospital's 120,000 cubic yard excavation project—assuming that 38 cubic yard trucks: a) exist in sufficient quantity in the Bay Area, b) would be available during that period of time and c) would be allowed on The Embarcadero, Harrison St., King St., Washington St. and Drumm St. by the City. [*see photo comparison of 12 cubic yard vs. 30 cubic yard trucks below*]

Unless the 8 Washington project sponsor can demonstrate one of these two highly unlikely scenarios is possible, then the EIR must reanalyze a number of impacts (e.g. Land Use, Air Quality, Greenhouse Gases) based on a revised excavation schedule, one that takes **2.5 to 3 TIMES** as long as the one described in DEIR to complete excavation work, and this 22 month timeline assumes NO archeological remains are found on site and the City imposes NO stop work orders related to America's Cup (see below).

08 [IO-6] cont.

[5] *"Construction-related activities would typically occur Monday through Friday, from 7 AM to 4 PM. It is anticipated that some construction activities may occur later or on Saturdays, on an as-needed basis".*

[6] Section *10.4: The City will use all lawful means to restrict noise and debris generating activities on public works and large private construction projects (if any) in areas reasonably proximate to the Event during America's Cup World Series Pre-regattas and the Regatta.*

This **15-month difference** between the excavation period analyzed in the DEIR and the ACTUAL time it will take (22 months vs. 7 months) is a major deficiency with profound impacts. Some of the most significant unavoidable negative impacts listed in the 8 Washington DEIR involve air quality during and after construction. Adjusting the EIR analysis to reflect how long excavation actually takes means the significant air quality impacts related to excavation (with the greatest detrimental effect on seniors and children) will persist for **2.5 to 3 TIMES LONGER** than described in the DEIR.

In light of this new information, the next draft of the both the *8 Washington DEIR* and the *America's Cup DEIR* must contain an analysis of this longer overall construction period for 8 Washington—two months for demolition; a range of **18 to 22 months for excavation** (not seven months); **a built-in range of time for the shutting down of the site when archeological artifacts are uncovered, documented and extracted** (something the DEIR's archeology consultant states is "likely"[7]); and the building construction period.

Finally, given the overly aggressive excavation schedule estimates for 8 Washington, all other estimates for later construction phases of this project must now to be cross checked for accuracy by independent contractors (e.g. not working for 8 Washington developer or the source of the prior DEIR excavation estimate).

08 [IO-6] cont.

B. The actual construction timeline for 8 Washington will be 41-52 MONTHS. If the 8 Washington project sponsors disagree with this assessment, they must provide the Planning Department with much more detailed information on how they expect to achieve a shorter construction period given the restrictions described in the DEIR itself as well as mathematical analysis described above. For instance,

- ***Did the developers err when they reported that the average number of truck trips per day would be 20 as analyzed in the DEIR?*** If so, what number do they choose to use now and how does that impact various aspects of the DEIR analysis such as air quality, conflicts with pedestrians, MUNI and America's Cup, etc..
- ***Does the developer plan to raise the limit of truck trips per day from 100 (as per the DEIR) to 300 truck trips per day?*** If so, how often will this happen and how will these changes impact various aspects of the previous EIR analysis (e.g. air quality, traffic/transit/pedestrian conflicts, America's Cup)?
- ***Does the developer plan to lengthen the average workday or work six days a week?*** If so, how often and how would this impact the previous DEIR analysis? NOTE: The DEIR construction schedule (27-29 months) was not predicated on the trucks operating 6 days a week EVERY WEEK. But even if the developer ran dump trucks 6 days a week for the ENTIRE excavation period it would still take TWICE AS LONG as the DEIR states to remove 110,000 cubic yards of dirt[8].

09 [IO-6]

[7] DEIR page IV.C.11: *"Significant archeological resources are likely to exist at this site".*

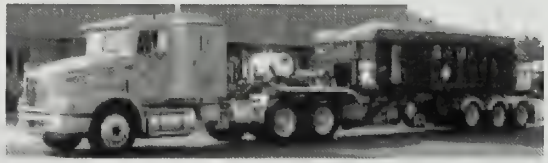
[8] 6 working days/week X 52 weeks = 312 working days – 11 holidays = 301 working days.

- ***Where is the project sponsor planning to route 100 to 300 trucks a day as they leave the site, particularly during the various America's Cup trials (2012) and finals (2013) when vehicular traffic will be severely limited or prohibited?*** Washington Street? The Embarcadero? Drumm Street? Clay Street?, where exactly?
- ***Have the developers located a source of 30+ cubic yard trucks and secured city permission to use them on the specific streets described in the DEIR?*** It seems fair to assume the SF General Hospital's excavation contractor would have done this if it were possible (and the SF PUC's Irvington Tunnel contractor). *See the three photos below to get a sense of the size difference between a typical 12 cubic yard dump truck and the type of tractor-trailer rig required to carry 30 cubic yards or more.*

09 [IO-6] cont.

As the data above demonstrates, the 8 Washington DEIR's claim that 110,000 cubic yards can be excavated in seven months defies the laws of physics and math, not to mention the *America's Cup Host and Venue Agreement* between the City and Larry Ellison's Oracle BMW Racing Team (see section C which follows).

A typical 12 cubic yard dump truck



Diesel tractor/trailer carrying 30 cubic yard box

458 days for task/301 working days = 1 year + 157 days/24 days per month = 18.5 months.

30 cubic yard belly dump trailer minus tractor (see above)

C. Additional Factors that will certainly add time to the Construction Schedule.

A thorough reading of the 8 Washington DEIR's Archeology section and *America's Cup Host and Venue Agreement* indicate that additional time must be built into the construction schedule for predictable work stoppages related to both issues.

KNOWN ARCHEOLOGICAL RESOURCES IDENTIFIED ON THIS SITE IN THE DEIR

On page IV.C.12, the 8 Washington DEIR's archeology consultant, Archeo-Tec, identifies the Gold Rush ship *Bethel* as located under a portion of the site and states "If discovered, the *Bethel* would be the oldest known (and perhaps most intact) archeological example of an early Canadian built ship". On page IV.C.11, the archeology consultant states *"Significant archeological resources are likely to exist at this site"*. The DEIR, goes on to state the proposed project will destroy a portion of city's original Seawall causing "the largest disturbance of the Old Seawall to date".

10 [IO-6]

As a result of these DEIR findings, this archeology consultant should now be asked for an estimate of the time required to mitigate the discovery of the *Bethel* and other likely finds (e.g. original Seawall, other Gold Rush ships, original Chinatown). This "likely" work delay should be built into the construction schedule and stated as a range. For purposes of the matrix below (Table 1) we chose a time of two weeks to two months based on anecdotal information from other similar sites. Archeo-Tec, the archeology consultant, should be able to come up with a more precise estimate.

KNOWN AMERICA'S CUP SCHEDULING CONFLICTS

Based on recent MTA staff presentations on protocols for the America's Cup, it seems clear that traffic, particularly construction dump trucks, will be banned from Washington Street, Drumm Street and The Embarcadero during major America's Cup events that include, at a minimum, the America's Cup World Series warm-up races (July/Sept. 2012), the penultimate Louis Vuitton Cup Series (July/August 2013) and the America's Cup finals (Sept. 2013).[9]

This represents a minimum of 2.5 months that must be added to the construction schedule, something the 8 Washington DEIR authors should have included if they had read the America's Cup DEIR which states there are 9 weeks of races associated with this event in 2012/2013. The extra few weeks added to the low-end range in Table 1 (below) are there to accommodate last minute weather delays (after the streets are closed) and large non-racing events held along the waterfront that will require closure of The Embarcadero, Washington Street, Drumm Street, etc.

Table 1 below lays out a more credible and realistic construction schedule based on the factors described at length above, taken directly from the DEIR or readily available from the city (e.g. America's Cup DEIR) and the *America's Cup Host and Venue Agreement*. 11 [IO-6]

Table 1: Required Changes to 8 Washington construction schedule

ACTIVITY	MINIMUM		MAXIMUM
DEIR's construction schedule:	**27 months**	to	**29 months**
Actual excavation schedule:	**18 months**		**22 months**
-- DEIR estimate for excavation	- 7 months		- 7 months
+ Increased excavation time	**11 months**	to	**15 months**
+ Archeology delays	**.5 months**	to	**2 months**
+ America's Cup delays	**2.5 months**	to	**5 months**
+ Weather delays	**.25 months**	to	**1 months**
ACTUAL CONSTRUCTION TIME	**41 months**	to	**52 months**

To refute these numbers, the project sponsors must not only present a verifiable and detailed plan to remove 110,000 cubic yards (9,167 truck trips) in seven months that the City has signed off on but also produce a letter from the City and Oracle BMW Racing granting a waiver from Section 10.4 of the *America's Cup Host and Venue Agreement* that would allow 20 to 300 trucks a day to drive along The Embarcadero, Washington Street or Drumm Street during major America's Cup events in 2012 and 2013.

[9] Note: a copy of these comments will provided to Peter Albert, SF Municipal Transportation Agency's America's Cup point person so he and his colleagues can comment on construction delays anticipated for 8 Washington given its prime location re: all major America's Cup events and related activities.

D. Significant Transportation and Energy issues that were not addressed in DEIR.

More specific information related to the construction process needs to be provided and analyzed in the 8 Washington EIR, particularly regarding far reaching impacts of those 9,166 dump truck trips, impacts that go beyond the Northeast Waterfront.

The 8 Washington DEIR states *"While exact routes that construction trucks would use would depend on the location of the available disposal sites, The Embarcadero, Harrison Street, and King Street would likely be the primary haul and access routes to and from I-80, U.S. 101, and I-280"*. At a minimum, the EIR needs to include information on where the two or three most likely disposal sites are located, based on recent experience (SF General Hospital excavation) so that one can analyze the extent of potential conflicts on the Bay Bridge or 101 South where other trucks will be transporting dirt to and/or from the Transbay Terminal project, Hunters Point Shipyard, Mission Bay, Treasure Island, etc. Without this information, the City could find itself creating significant traffic conflicts on the Bay Bridge or highway 101 that greatly increase air quality, traffic and transit problems without having analyzed these potential impacts in a flawed EIR.

Simply saying *"While the exact routes that construction trucks would use would depend on the location of the available disposal sites"* isn't adequate or acceptable. Assumptions must be made regarding most likely disposal sites and routes to those sites and what additional cumulative impacts these routes (and 9,166 trucks) will create. Both the 12 [IO-6]

8 Washington and America's Cup EIRs must provide a MAP of the routes to be used for hauling this soil, all the way from the departure point at 8 Washington to the final destination(s) with an explanation of where trucks will drive and what restrictions there are on hours, size of payload, safety, etc. for the various streets, highways and bridges they will travel on. If the options include trucking the soil to San Francisco's southern waterfront to transfer it to barges, then this needs to be disclosed and analyzed, including potential routes and destinations of barges before, during and after the America's Cup.

In addition, to accurately compare the environmental impacts of the project sponsor's 'Preferred Project' to the "No Project" alternative (energy consumption, traffic impacts, air quality degradation, etc.), one needs to know not only what the destinations of the approximately 9,166 dump truck trips are but also the average miles per gallon for a typical dump truck. For instance, if the final destination for the soil was 50 miles away and a typical dump truck averages 8 miles per gallon of diesel fuel, then:

9,166 truck trips X 100 miles per round trip = **916,600 miles** for all dump trucks;

916,600 gallons/8 MPG = **114,575 gallons of diesel fuel** that would be burned.

In other words, the city's choices would be:

114,575 gallons of fuel used to transfer 110,000 cubic yards 916,600 miles

VS.

ZERO (O) gallons of fuel used if the NO PROJECT alternative were approved.

12 [IO-6] cont.

E. Importance of accurate, detailed information re: the construction process.

Given the above discussion, it is clear that the construction schedule set forth in the 8 Washington DEIR is inaccurate and misleading and has led, in many cases, to the significant understating of major negative impacts associated with that project. The lack of a detailed discussion of some of the key aspects of the construction process, e.g. the route and destination of 9,166 dump trucks, is also highly problematic.

The America's Cup DEIR must now look at the conflicts created by 8 Washington excavating 110,000 cubic yards of soil in 9,166 trucks on The Embarcadero at the same time as the major races scheduled for the America's Cup (2012/2013), and cannot rely on the 8 Washington DEIR draft (7 month excavation) but MUST address the questions and data set forth in this section (22 month excavation).

13 [IO-6]

Without a complete and thorough analysis of the impacts of an overall construction schedule that is TWICE AS LONG as the one analyzed in the 8 Washington DEIR, city officials will be missing critical information they need to analyze conflicts between the 8 Washington project sponsor's 'Preferred Project' and Section 10.4 of the *America's Cup Host and Venue Agreement.* ***A complete and factual analysis of these issue must be included in the next draft of the America's Cup EIR.***

II. THE DEIR IS INADEQUATE AND INCOMPLETE IN ITS FAILURE TO INCLUDE ANY ACKNOWLEDGEMENT OR ANALYSIS OF ASIAN NEIGHBORHOOD DESIGN'S *A COMMUNITY VISION FOR SAN FRANCISCO'S NORTHEAST WATERFRONT* **IN ITS DISCUSSIONS OF CONNECTING THE NORTHEAST WATERFRONT TO THE REST OF THE CITY, PARTICULARLY CHINATOWN AND NORTH BEACH.**

On pages 4-21 through 4-22 of the America's Cup DEIR a discussion of "Objectives for the Northeast Waterfront subarea" includes the following:

14 [PP-3c]

- *Protect historic resources as the area evolves;*
- *Continue cargo support activities for as long as feasible;*
- *Encourage new activities to draw San Franciscans to the water's edge;*
- *Highlight gateways to Fisherman's Wharf, North Beach, and Chinatown.*

Meeting the first, third and fourth of these objectives is at the heart of this

comprehensive community plan for the Northeast waterfront (prepared by Asian Neighborhood Design) entitled *A Community Vision for San Francisco's Northeast Waterfront*, a plan that, to the best of our knowledge, wasn't mentioned in the America's Cup DEIR.

This community based plan is not to be confused with the Planning Department's *Northeast Embarcadero Study* (NES). On July 7, 2010, when the Planning staff presented the NES to the Planning Commission, AND and the community sponsors of the "*Community Vision for the Northeast Waterfront*" were also invited to present a summary of their planning work to the Planning Commission.

The 8 Washington DEIR has already been criticized for its biased discussion of the *Northeast Embarcadero Study* (NES) and failing to include an equally detailed discussion of the background and recommendations of Asian Neighborhood Design's *A Community Vision for San Francisco's Northeast Waterfront.*

The second sentence in the third paragraph of the Introduction to the 8 Washington DEIR states that the purpose of *the Northeast Embarcadero Study* (NES) was "to foster consensus on the future of Seawall Lot 351 and at other seawall lot properties on the northern waterfront" and leaves the reader with the impression that it succeeded in this goal by stating how many public workshops were held (five) and "on July 8, 2010, the San Francisco Planning Commission adopted a resolution that it 'recognizes the design principles and recommendations of the Study' and urges the Port to consider the recommendations of the NES when considering proposals for new development in this area".

14 [PP-3c] cont.

What the 8 Washington DEIR fails to mention is the level of anger and frustration expressed by the majority of the public that attended these five workshops who felt the Port, who was paying for the NES, was dictating its conclusions in order to facilitate the approval of 8 Washington. For example, when 30-40 people at a workshop opposed the notion advanced by Planning staff that The Embarcadero needed a "hard edge" and "higher heights" for the 8 Washington site and only 6-8 people expressed support for these ideas, the notes from that meeting would later say that opinion was 'divided' on these matters. [To its credit, the Planning Department states clearly in the final draft of the NES that it failed in its goal of achieving consensus on the future of SWL 351].

People were so upset by what they perceived as a transparent attempt to 'justify' the 8 Washington project, that they began their own community-based planning process to address the larger issues of reconnecting Chinatown, North Beach, Russian Hill and Telegraph Hill to the Waterfront, and healing the wounds left by the Embarcadero Freeway ramps by making Broadway and Washington Streets more pedestrian, bicycle and transit friendly. These objectives parallel the objectives described above from the "Objectives for the Northeast Waterfront subarea" on pages 4-21 through 2-22 of the America's Cup DEIR.

Four major community organizations—representing thousands of local residents, small businesses and property owners—became the primary sponsors/organizers of "*A Community Vision for the Northeast Waterfront*" and hired Asian Neighborhood Design to assist them in developing it. These organizations included: *Friends of Golden Gateway; Golden Gateway Tenants Association; Telegraph Hill Dwellers and the Barbary Coast Neighborhood Association.* Stakeholders from Chinatown, Russian Hill, Nob Hill, Fisherman's Wharf and other neighborhoods also participated.

The 8 Washington and America's Cup DEIRs fail to even mention this alternative plan created by numerous community stakeholders with AND's help. Both DEIRs need to describe this study, how it differs from Planning's NES and include it in the final EIR. 14 [PP-3c] cont.

We are attaching a copy of *A Community Vision for San Francisco's Northeast Waterfront* to these comments and ask that it be included in the final America's Cup EIR so that readers and public officials can gauge for themselves if this community plan was more successful than the Planning Department's *Northeast Embarcadero Study* (NES) in "fostering consensus on the future of Seawall Lot 351 and at other seawall lot properties along the northeast waterfront" as well as "drawing San Franciscans to the water's edge" and reconnecting The Embarcadero to Chinatown, North Beach, Telegraph Hill, Russian Hill and other adjacent neighborhoods.

Some of the specific recommendations from the AND plan that address the America's Cup DEIR's "Objectives for the Northeast Waterfront subarea" re: connecting North Beach and Chinatown to the waterfront and "encouraging new activities to draw San Franciscans to the water's edge" (DEIR pages 4-21 to 4-22) include:

1. Improve Washington Street Corridor (Columbus to The Embarcadero):
- a. create better pedestrian connections across Columbus at Washington;
- b. create parklets, sidewalk bulb-outs and food trucks/carts between Davis and Battery on the north (sunny) side of the street;
- c. build corner retail into parking garage between Davis & Battery (north side).

15 [PP-3c]

2. Improve Broadway Corridor from Montgomery to The Embarcadero:
- a. extend upper Broadway improvements (lighting, benches, artwork) along lower Broadway to The Embarcadero;
- b. develop a shuttle service from upper Broadway to The Embarcadero, possibly using motorized cable cars.

3. Improve transit connections from Chinatown/North Beach to Embarcadero:
- a. reestablish #10 and #12 MUNI bus lines all the way to Embarcadero;
- b. extend Chinatown shuttle bus line one more block to The Embarcadero.

4. Make more efficient use of existing garages eliminating need for new ones:
- a. coordinate validation stickers, hours, parking apps and signage among 15 parking garages included in the study;

- b. remove berm blocking line-of-sight from Ferry Bldg. to Embarcadero 4 garage.

5. Preserve and enhance existing open space and active recreation facilities.
- a. add small parks and a playground along city side of The Embarcadero;
- b. preserve Golden Gateway's active recreation center (replace green fence);
- c. meet with Exploratorium to discuss 'greening' its parking lot.

15 [PP-3c] cont.

6. Support revenue generating uses that comply with Public Trust restrictions on those seawall lots where true consensus for such uses exists (not SWL 351).

All of these recommendations could begin implementation in the next year, in preparation for the July/August World Series races in 2012. ***The DEIR must analyze each one and state what next steps are necessary to implement them.***

III. THE DEIR FAILS TO ADDRESS A MAJOR CUMULATIVE HOUSING IMPACT THAT THE AMERICA'S CUP WILL HAVE ON SAN FRANCISCO'S HOUSING THAT WILL ACCELERATE THE LOSS OF AFFORDABLE RENTAL HOUSING UNLESS SPECIFIC MITIGATION MEASURES ARE PUT IN PLACE IMMEDIATELY. 16 [PH-1]

The America's Cup DEIR is to be commended for clearly and accurately presenting the "Housing Needs Allocation for San Francisco, 2007-2014" in **Table 5.4-4.** This gives the reader a sense of how much housing the City must build in each income category to meet its housing goals as set forth in the 2009 Housing Element. Where we have problems with the DEIR is when we read things such as:

> **Impact PH□5 (Pg. 5.4-25): Construction and operation of the James R. Herman Cruise Terminal and Northeast Wharf Plaza would not displace existing housing units or create demand for additional housing. (Less than Significant).** No existing housing is located at the project site. Consequently, construction and operation of the cruise Terminal and wharf plaza would not displace any existing housing units.

Similar statements are made about construction and operation of facilities related to the America's Cup, *that this will not displace any existing housing*, but on this matter the DEIR is unequivocally **wrong**. Holding the America's Cup in San Francisco will have a major impact on San Francisco's Housing and Population, one that will result in the displacement of existing housing by fueling a relatively new and growing trend to convert existing rental apartments to short-term rentals (hotel rooms). 17 [PH-1] Portions of a section of the comments recently submitted on the 8 Washington DEIR provide a detailed analysis of this issue as well as a description of the mitigations necessary to prevent this from happening:

A. THE DEIR IGNORES THE GENTRIFICATION AND DISPLACEMENT IMPACTS THAT THE AMERICA'S CUP WILL HAVE ON HOUSING THROUGHOUT THE CITY RESULTING IN THE LOSS OF THOUSANDS OF RENT CONTROLLED UNITS IN BUILDINGS LARGE (GOLDEN GATEWAY WITH ITS 1,200 RENTAL APARTMENTS, ETC.) AND SMALL BY ENCOURAGING THE FURTHER HOTELIZATION OF RENTAL APARTMENTS 18 [PH-1]

The 8 Washington/SWL 351 project and its impact on the 1,200 rent-controlled units at the Golden Gateway Center offer an illustrative example of the types and magnitude of the larger cumulative impacts the America's Cup **will** have on the city's housing stock as well as potential mitigations.

The other 'partner' in the 8 Washington Street project is Mr. Timothy Foo, who, with other investors, bought Golden Gateway from Perini Corp. about 20 years ago. Only 20% of the 8 Washington site is on Port land, while 80% of the site is on land owned by Mr. Foo and currently occupied by Golden Gateway's community recreation center.

In addition to violating the original Golden Gateway redevelopment agreement that required Perini (and future owners) to preserve Golden Gateway's active recreation center in exchange for deep discounts in land prices Redevelopment charged for the land used to build the Gateway Commons condos and the Golden Gateway Tennis and Swim Club, for some time now Mr. Foo has also been converting rent controlled apartments in the Golden Gateway to short term rental and hotel use (e.g. on one floor of a high-rise tower, a third of the units are rented this way).

These conversions have been well documented by the Golden Gateway Tenants Association, the Affordable Housing Alliance and the San Francisco Tenants Union. While such conversions are not unique to the Golden Gateway Center (see attached *Bay Citizen* article), they are illegal and violate the city's zoning, rent control and apartment conversion ordinances.

Both the 8 Washington and the America's Cup DEIR must address this issue by posing the following questions to Mr. Foo and incorporating his answers into the revised DEIRs. He must provide this information because as the owner of 80% of the underlying land that comprises the 8 Washington site, he had and continues to have a direct financial stake in this project. He must be asked the following questions: 19 [PH-3]

How many of Golden Gateway's 1,200 rental apartments are currently being used as hotel rooms and/or short-term rentals and/or rented to persons other than those using them as primary residences or directly related to the person residing there (e.g. corporations, business organizations, apartment brokers)?

Has Mr. Foo consulted with either the Rent Board or the Planning Department as to the legality of his use of apartments in Golden Gateway as hotel rooms or short-term rentals under applicable city zoning codes, the San Francisco Rent Control ordinance or the city's Apartment Conversion Ordinance?

Upon receiving and analyzing this information from Mr. Foo, the DEIR must then answer the following questions:

Is the 'hotelization' of Golden Gateway and other large apartment complexes likely to increase with the approval of 8 Washington, a development that:

a) builds 165 high-end luxury condos ($2.5 - $10 million each) on Mr. Foo's property—creating a much more upscale environment adjacent to his Golden Gateway apartments;

b) provides Mr. Foo with $10-15 million (what he's likely to be paid for his 80% of the site) that can be used to upgrade his rent controlled apartments at Golden Gateway in order to attract even more higher paying hotel users; and

*c) if no mention of these conversions is made in the DEIR, after these written comments have been submitted, will send a clear message to Mr. Foo and others that the City has **no intention** of enforcing its own zoning, rent control and apartment conversion ordinances, thereby encouraging even more conversions.*

If conversions like those at Golden Gateway are not stopped soon, **the city is at risk of losing thousands of residential apartments** in its downtown neighborhoods. Furthermore, if this problem is not addressed immediately, it will only encourage and escalation of the losses to date as landlords look for ways to capitalize on the coming of the America's Cup. 20 [PH-3]

What kind of mitigations would prevent further hotelization of Golden Gateway's 1,200 rent controlled apartments and other apartments in San Francisco?

With larger apartment complexes such as Golden Gateway, Parkmerced and Fox Plaza, owners get around current prohibitions on renting apartments for less than 30 days as hotel rooms (an action that is legally prohibited by the San Francisco Apartment Conversion Ordinance) by leasing them for more than 30 days to third parties (e.g. corporations, apartment brokers). These intermediaries then rent the apartments for anywhere from a day or two to a few weeks to a month or two.

A simple amendment to the Apartment Conversion Ordinance that changes "you cannot rent an apartment for less than 30 days" to "you cannot rent **or occupy** an apartment for less than 30 days" would prevent Golden Gateway and others from renting apartments for anywhere from a few days to up to four weeks. Preventing 30-60 day rentals would be a more complicated matter.

The 8 Washington DEIR must address how constructing 8 Washington could encourage, help fund and accelerate Mr. Foo's conversion of the 1,200 units at Golden Gateway from rent controlled apartments to hotel use as well as the impacts this has on city's housing goals as set forth in San Francisco's 2009 Housing Element and RHNA goals. If we are converting housing to non-housing (hotel) uses as fast or faster than we are creating new housing units, we will never dig ourselves out of our

current housing crisis and that outcome would have catastrophic impacts on the environmental and economic sustainability of San Francisco as a city.

A major new event such as the America's Cup, that brings hundreds of thousands of additional tourists and visitors to San Francisco, cannot help but exacerbate this problem, increasing the likelihood that people who own rental apartments in San Francisco's Northeast waterfront, North Beach, Telegraph Hill, Russian Hill and throughout the eastern part of the city will stop renting their apartments as apartments and convert them to hotel and short-term rental use. 21 [PH-1]

As the recent *Bay Citizen* article (attached) points out, this problem is increasing as apartment brokers, like the woman interviewed in the article, are convincing landlords that they can make THREE TIMES as much money renting out rent-controlled apartments as hotel rooms than renting them out as apartments. The America's Cup crowds will only add gasoline to this fire that is consuming thousands of desperately needed rental apartments in San Francisco. The good news is that there are mitigations that could slow these losses. But they must be implemented **now** as part of the build-up to the America's Cup.

The America's Cup DEIR cannot avoid this problem by arguing that "if there is no housing on the project site" then the project "would not displace any existing housing units." It must acknowledge the housing demand this event will induce, the clear displacement impacts that will have by encouraging 'hotelizaton' and how to implement the mitigation measures described above as soon as possible. 22 [PH-1]

For these reasons, I believe the America's Cup DEIR is incomplete, seriously flawed and inadequate to address the potentially significant impacts of this project. I say this as a supporter of bringing the America's Cup to San Francisco having grown up watching the America's Cup races in Newport, Rhode Island—the last time they were held in the United States. I support this event, but we must plan our mitigations carefully and fund them adequately. Without the information I have requested above, the City cannot do that.

Sincerely,

Brad Paul

cc: Nannie Turrell, Environmental Planning Division
John Rahaim, Director, Planning Department
San Francisco Planning Commissioners
Supervisor David Chiu, District 3

From: William Pendergast
To: joy.navarrete@sfgov.org
Subject: Parking for Marina Residents During America's Cup Races
Date: 08/14/2011 04:47 AM

Dear Ms. Navarette:

I wanted to write to express my concern about parking difficulties for Marina residents during the upcoming America's Cup events. Like many other Marina residents I don't have garage/parking privileges in my apartment building so I park on the street. Street parking is already very difficult in the Marina; it could get ugly during the Cup!

I'm hoping that this issue is being considered and a solution will be available to help residents as well as visitors. (Perhaps residents could get temporary permits allowing them to park in the schoolyard at Winfield Scott or Marina Middle School, or Fort Mason or the Marina Green?) 1 [TR-10]

Thank you for your attention! If solutions are being considered, I would appreciate it if you could let me know what they are (or where I might find them).

W. David Pendergast
1830 Beach St Apt 2
SF CA 94123

I-Pfeifer

August 24, 2011

To: Bill Wycko, Environmental Review Officer for the city of San Francisco (CSF)
Joy Navarrette, Project Managmer (CSF)

From: Linda Pfeifer, Ed.D.
Resident, City of Sausalito
211 South Street Sausalito CA 94965
pfeiferlj@hotmail.com
(415)235-0565

Re: Public Comment regarding EIR America's Cup 34

Thank you for the opportunity to respond to the EIR for America's Cup 34 (AC 34). Although I am a member of the Sausalito City Council, I am providing feedback as a concerned resident rather than a Councilmember. The City of Sausalito has already provided formal written feedback dated 8/24/11, emailed at approximately 12:30pm. My personal comments as a resident follow:

The Sausalito shoreline is home to eelgrass, which is federally protected under the Clean Water Act. Eelgrass provides spawning habitat for the Pacific Herring, shelters juvenile salmon, provides salmon food such as harpacticoid copepods, offers habitat for Dungeness crab to molt in the spring, and serves as the foundation for a sensitive marine food chain. At low tide, eelgrass provides shelter for small animals and plants from extreme temperatures. 1 [BIM-4a]

Dredging to create mooring fields for boat anchorage near eelgrass habitat could disrupt eelgrass growth. Building mooring fields in eelgrass habitat will devastate sensitive marine habitat and disrupt the sensitive marine food chain.

AC 34 should avoid anchorage/mooring fields/moorings in or close to sensitive eelgrass habitat. The full EIR should include mitigation to avoid impact to eelgrass habitat so as to protect this fragile ecosystem and the wildlife population along Sausalito's shoreline and in Richardson's Bay. 2 [BIM-4a]

Sincerely,

Linda Pfeifer
211 South Street
Sausalito, CA 94965

COM-342

I-Platt

RECEIVED
AUG 25 2011
CITY & COUNTY OF S.F.
PLANNING DEPARTMENT
RECEPTION DESK

Logged

G. BLAND PLATT ASSOCIATES
HISTORIC PRESERVATION CONSULTANTS

August 25, 2011

To: Mr. Bill Wycko, Environmental Review Officer
City Planning Department, San Francisco
From: Mrs. Bland Platt
Re: America's Cup, Cruise Terminal and Northeast Plaza DEIR
Case No. 2010.0493E

While I appreciate the complexities and the time constraints imposed by this undertaking, I am deeply troubled by the lack of attention paid to historic resources, especially those in the Port's National Register listed Embarcadero Historic District and the Article 10 designated Northeast Waterfront Historic District, across the Embarcadero, and within which the Port owns a number of parcels - until one reaches Chapter 5 - setting. The Executive Summary through Sections 3 and 4 talk about what the various endeavors entail, what the supposed impacts are and proposed mitigation measures without any mention of a structure being an historic resource. This could be remedied in Chapter One, the Executive Summary by including some information and references to an augmented Chapter 3 and to Chapter 5, including a map of both historic districts in the front of the document would assist the reader as would references to the Port's Embarcadero Historic District - Figure 5.5-1 on page 5.5-43. Including early references to the Port's 1997 "Waterfront Land Use Plan" and BCDC's and the Port's amended "San Francisco Special Area Plan" (2000) would also provide a framework for the reader. 1 [CP-4]

362 Ewing Terrace San Francisco, California 94118 (415) 922-3579

America's Cup DEIR Mrs. Sland Platt Aug. 25, 2011 Page 2

Piers 27 and 29 cannot be conflated and considered as a single entity. Pier 27, dating to the 1940's is not an historic resource either architecturally or historically, and it detracts from, rather than contributing to the National Register-listed Embarcadero Historic District. Consequently, its removal would not have an adverse impact that would necessitate mitigation.

Pier 29, on the other hand, is an extremely significant historic resource, and an important contributor to its National Historic District. The potential impacts to this resource from any anticipated or proposed alterations or removals must be properly assessed and appropriate mitigation measures instituted in this document, unless future evaluation is instead indicated. At present, Volume I of the DEIR does not adequately provide the reader with sufficient historical and architectural documentation of Pier 29, including why it's there, and how it relates historically to Piers 31–33 and 35, including its original length, ins-a-ins tides, currents and wind. Historic and current dimensions for both Pier 29 and its shed must be included in the text together with dimensions of the various portions being considered for removal. This is particularly important in trying to assess Figure 5.3-19 which suggests that 1/3 to 1/2 of Pier 29 would be demolished if ARG's proposed solution is considered. Yet no mitigation measures are proposed! 2 [CP-3]

Any proposed demolition, alteration or removal of any portion of Pier 29 would necessitate consideration of a variety of alternatives, each of which must also include all dimensions. Based upon the remarkable original trussing and structural system still visible at the end of Pier 29, even with the Pier 27 intrusion, a restoration alternative must be considered. The Port should have original plans to consult and photographs should be included with the alternative as well. Another alternative would be to work with the last three (3) bays of Pier 29, after the careful removal of the Pier 27 intrusion. This would capture the pier's more recent history. The roof structure with flashing and unusual monitors must also be taken into account in these studies as well as any future consideration of solar panels here.

America's Cup DEIR Mrs. Sland Platt August 25, 2011 Page 3

and on any other historic resource.

Considerably more attention must be paid to the Northeast Wharf Plaza before a project can be approved. As an historic preservation professional who worked with the Port and BCDC on the Port's 1997 "Waterfront Design and Access Plan" as well as BCDC's "San Francisco Waterfront Special Area Plan" adopted in 2000, I would be interested in BCDC's comments on the proposed Plaza. The removal of Pier 27 could significantly enlarge the previously proposed Plaza, but how would it best function for BCDC's constituents? It was initially to be a large, grassy area with direct access to water for a wide variety of users. With a much larger plaza, hopefully the future loss of the end of the architecturally significant Pier 23 would no longer be necessary. I have heard that some may wish to add as many as four (4) buildings to the Plaza. Would they be moveable, or removable? Where would they be placed? How large would each be? What uses would they have and why would these be important? Would any or all of these negatively impact BCDC's objectives? And, of course, what impact would any or all of these have on the Embarcadero Historic District? 2 (cont.) [CP-3] 3 [CP-8]

While I appreciate the time constraints presented by the America's Cup proposal and applaud those who created this 1600–2300 page DEIR in what must be record time, I am troubled by the lack of public input and oversight to date and going forward, especially where historic resources are concerned. Note, for example, that the Historic Preservation Commission (HPC) and the Planning Commission (PC) are not included in the list of abbreviations on Pages XIII – XX. Further, the Historic Preservation Commission's only recognized role appears to be of advisory to the Northeast Waterfront Historic District. Instead, the DEIR suggests historic preservation planners at the Port and Planning Department would make all subsequent decisions leading up to Port and BCDC approvals. Such an arrangement is not acceptable when so many issues have not been and seemingly cannot be resolved at this time. While I fully recognize that the Port 4 [CP-2]

America's Cup DEIR Mrs. Bland Platt August 25, 2011 Page 4

Commission, BCDC and others have final authority, I would suggest that using the recognized expertise and guidance of the Historic Preservation Commission, meeting in public session, could speed subsequent approvals, saving both time and money. I would further suggest that Section 1010 of the Planning Code and Section 4.135 of the Charter of the City and County of San Francisco require this, especially in situations such as this where further action of the Board of Supervisors is required. Such review and comment by the HPC would not be unusual as the Art often takes issues, concepts and plans to the HPC in similar situations. 4 [CP-2] cont.

Another avenue the Port and BCDC may also wish to explore would be reinvigorating the Historic Preservation Advisory Group both agencies used leading up to the "Waterfront Design and Access Element of the Waterfront Land Use Plan", and BCDC's "San Francisco Waterfront Special Area Plan", and subsequently, the Embarcadero National Register Nomination. Such a group could legally include as many as three (3) members of the Historic Preservation Commission. 5 [CP-22, CP-2]

In this same vein, please explain in detail when the State Office of Historic Preservation and the State Historic Preservation Officer would be involved. Also, in what situations would the Advisory Council on Historic Preservation and the National Park Service be involved in potential issues going forward. 6 [CP-2]

On Page 5.2-6+7, please refer to Appendix D of Article 10 of the City Planning Code to draft more relevant explanation of the Contents of the Northeast Waterfront Historic District. Sections 5 and 6 would be most relevant. I requested a map of this Historic District on the first page of these comments. 7 [CP-2]

Any discussion of costs of proposed work should include reference to the State Historic Building Code and the Investment Tax Credit, both available to historic building in this area. 8 [CP-2]

Thank you for your consideration

GBP

COM-344

G. BLAND PLATT ASSOCIATES
HISTORIC PRESERVATION CONSULTANTS
August 25, 2011

To: Mrs. Bill Wycko, Environmental Review Officer
City Planning Department, San Francisco
From: Mrs. Bland Platt
Re: America's Cup, Cruise Terminal and Northeast Plaza DEIR, Case No. 2010.0493.E

While I appreciate the complexities and the time constraints imposed by this undertaking, I am deeply troubled by the lack of attention paid to historic resources, especially those in the Port's National Register listed Embarcadero Historic District and the Article 10 designated Northeast Waterfront Historic District, across the Embarcadero, and within which this Port owns a number of parcels – until one reaches Chapter 5 – Setting. The Executive Summary through Sections 3 and 4, talk about what the various endeavors entail, what the supposed impacts are and proposed mitigation measures without any mention of a structure being an historic resource. This could be remedied in Chapter One, the Executive Summary by including some information and references to an augmented Chapter 3 and to Chapter 5. Including a map of both historic districts in the front of the document would assist the reader as would references to the Port's Embarcadero Historic District – Figure 5.5-1 on page 5.5-43. Including early references to the Port's 1997 "Waterfront Land Use Plan" and BCDC's and the Port's amended "San Francisco Special Area Plan" (2000) would also provide a framework for the reader. 1 [CP-4]

Piers 27 and 29 cannot be conflated and considered as a single entity. Pier 27, dating to the 1960's is not an historic resource either architecturally or historically, and it detracts from, rather than contributing to the National Register-listed Embarcadero Historic District. Consequently, its removal would not have an adverse impact that would necessitate mitigation.

Pier 29, on the other hand is an extremely significant historic resource, and an important contributor to its historic district. The potential impacts to this resource from any anticipated or proposed alterations or removals must be properly assessed and appropriate mitigation measures instituted in this document, unless future evaluation is instead indicated. At present, Volume I of the DEIR does not adequately provide the reader with sufficient historical and architectural documentation of Pier 29, including why it is there, and how it relates historically to Piers 31-33 and 35, including its original length vis-à-vis tides, currents and wind. Historic and current dimensions for both Pier 29 and its shed must be included in the text together with dimensions of the various portions being considered for removal. This is particularly important on trying to assess Figure 5.3-19 which suggests that 1/3 to 1/2 of Pier 29 would be demolished if HRG's proposed solution is considered. Yet no mitigation measures are proposed! 2 [CP-3]

Any proposed demolition, alteration or removal of any portion of Pier 29 would necessitate consideration of a variety of alternatives, each of which must also include all dimensions. Based upon the remarkable original trussing and structural system still visible at the end of Pier 29,

even with the Pier 27 intrusion, a Restoration Alternative must be considered. The Port should have original plans to consult and photographs should be included with the alternative as well. Another alternative would be to work with the last three (3) bays of Pier 29, after the careful removal of the Pier 27 intrusion. This would capture the pier's more recent history. The roof structure with glazing and unusual roof monitors must also be taken into account in these studies as well as any future consideration of solar panels here and on any other historic resource. 2 [CP-3] cont.

Considerably more attention must be paid to the Northeast Wharf Plaza before a project can be approved. As an historic preservation professional who worked with the Port and BCDC on the Port's 1997 "Waterfront Design and Access Plans" as well as BCDC's "San Francisco Waterfront Special Area Plan" adopted in 2000, I will be interested I BCDC's comments on the proposed Plaza. The removal of Pier 27 could significantly enlarge the previously proposed Plaza, but how would it best function for BCDC's constituents? It was initially to be a large, grassy area with direct access to water for a wide variety of users. With a much larger plaza, hopefully the future loss of the end of the architecturally significant Pier 23 would no longer be necessary. I have heard that some may wish to add as many as four (4) building to the plaza. Would they be moveable or removable? Where would they be placed? How large would each be? What uses would they have and why would these be important? Would any or all of these negatively impact BCDC's objectives? And, of course, what impact would any or all of these have on the Embarcadero Historic District? 3 [CP-8]

While I appreciate the time constraints presented by the America's Cup proposal and applaud those who created this 1600-2200 page DEIR in what must be record time, I am troubled by the lack of public input and oversight to date and going forward, especially where historic resources are concerned. Note, for example, that the Historic Preservation Commission (HPC) and the Planning Commission (CPC) and not included in the list of abbreviations on pages xiii-xx. Further, the Historic Preservation Commission's only recognized role appears to be if Teatro Zinzinni relocates to the Northeast Waterfront Historic District. Instead, the DEIR suggests historic preservation planners at the Port and Planning Department would make all subsequent decisions leading up to Port and BCDC approvals. Such an arrangement is not acceptable when so many issues have not been and seemingly cannot be resolved at this time. While I fully recognize that the Port Commission, BCDC and other have final authority, I would suggest that using the recognized expertise and guidance of the Historic Preservation Commission, meeting in public session, could speed subsequent approvals, saving both time and money. I would further suggest that Section 1010 of the Planning Code and Section 4.135 of the Charter of the City and County of San Francisco require this, especially in situations such as this where further action of the Board of Supervisors is required. Such review and comment by the HPC would not be unusual as the Port often takes issues, concepts and plans to the HPC in similar situations. 4 [CP-2]

Another avenue the Port and BCDC may also wish to explore would be reinvigorating the Historic Preservation Advisory group both agencies used leading up to the "Waterfront Design and Access Element of the Waterfront Land Use Plan," and subsequently, the Embarcadero National Register nomination. Such a group could legally include as many as three (3) members of the Historic Preservation Commission. 5 [CP-22, CP-2]

In this some vein, please explain in detail when the State Office of Historic Preservation and the State Historic Preservation Officer would be involved. Also, in what situations would the Advisory Council on Historic Preservation and the National park Service be involved in potential issues going forward. 6 [CP-2]

On page 5.2-6&7, please refer to Appendix D of Article 10 of the City Planning Code to craft more relevant explanations of the contents of the Northeast Waterfront Historic Districts Sections 5 and 6 would be most relevant. I requested a map of this Historic District on the first page of these comments. 7 [CP-2]

Any discussion of costs of proposed work should include reference to the State Historic Building Code and the Investment Tax Credit, with both available to historic buildings in this area. 8 [CP-2]

Thank you for your consideration

I-Purves

From: Caroline Purves
To: joy.navarrete@sfgov.org
Subject: The proposed rape of the bay
Date: 08/24/2011 11:15 AM

Dear Ms. Navarette,

I wish to state my objection to the installation of a floating dock in the open water along Rincon Park as requested by the organizers of the 34th America's Cup. Even more important, I wish to also state my objection to the host agreement between the city and the event authority that would allow long term development rights in Bay waters should any dredging be required by the installation of the docks. After finally opening up views to our beautiful bay by removing the freeway and creating the walkways that make these views accessible to our citizens and visitors to this area, it would be a travesty to have this kind of development take any of that away either in the short or long term. Please convey my objections to the members of the San Francisco City Planning Department. 1 [AE-2]

Thank you for your kind attention to this matter.

Sincerely,

Caroline Purves

P.S.

Please excuse my laziness in not drafting an original letter. But this one does express my sentiments, only without the outrage that I feel.

Again, thanks for taking to time to hear (read) these concerns.

I-Quarles

From: Rich Quarles
To: joy.navarrete@sfgov.org
Subject: America's Cup draft EIR
Date: 08/19/2011 12:08 PM

I'm writing in comment about the America's Cup draft EIR. In particular, I'm concerned about the possible impact the event will have on recreational swimming in Aquatic Park. As a near-daily year-round swimmer at Aquatic Park, I was somewhat alarmed by the fact that no mention is made of the primary recreational use of Aquatic Park: open water swimming.

Specifically, the idea of a jumbotron TV anchored in the middle of the cove for spectators to watch races sounds like a bad idea. The barge/TV itself is alarming enough, but the trash and pollution created by these crowds will also impact water quality. How will this impact swimmers?

Further, I believe there is some discussion of allowing one or racing catamarans to anchor in the cove. This is an entirely unsuitable place for large racing ships... just one of these behemoths tacking into or out of aquatic park would scare any sane swimmer from getting in the water. The potential for a fatal accident involving a swimmer being run over would be very high. Please remember that the entire cove is designated as a swimming area and swimmers DO use the entire cove from the beach out to the entrance. This is no place for high powered racing yachts or jumbotron screens. The whole point of Aquatic Park is to provide a safe and relatively sheltered place for swimming. 1 [HY-3, HY-9c, HY-9e, RE-2]

Finally, please keep in mind that general water quality and accessibility is critical for *many* recreational users of the bay, including the swimmers, windsurfers, kitesurfers, rowers, etc who enjoy the waters and beaches adjacent to and within the designated racing courses.

Aquatic Park is one of the most famous and historic open water swimming venues in the world. It's used by triathletes, senior citizens, and folks in between. There's no equivalent or alternative swimming area in the city-- please protect it for it's ongoing and historic *raison d'etre*.

Best,
Rich Quarles
601 Fell Street
San Francisco, CA 94102

--

Rich Quarles

glassCanopy, Inc.

Main: 800.464.9750

I-Quarles

Direct: 415.963.4185

I-Reece

From: james reece
Reply To: james reece
To: jon.navarrete@sfgov.org
Subject: Berthing facilities for yachts
Date: 08/22/2011 12:27 PM

After reading John King's article on the proposed berthing facilities for a hundred or so mega-boats for the America's Cup race, I felt I must respond.
I live at 4th and Folsom and walk down to the embarcadero on a regular basis. I moved there from the Castro to take advantage of the views along the water. Building this floating dock for these ships will destroy our view from the park at the end of Folsom. These races should be observed by as many as possible. Giving prime viewing rights to a privileged few does not sit well we me or my neighbors or the thousands who would like an unobstructed view of the proceedings. Please reconsider. 1 [AE-2]

J. Reece

I-Rhodes

John R Rhodes
50 Lansing Street #701
San Francisco, CA 94105

RECEIVED
AUG 25 2011
CITY & COUNTY OF S.F.
PLANNING DEPARTMENT
MEA

August 23, 2011

Mr. Bill Wycko
Environmental Review Officer
San Francisco Planning Department
1650 Mission Street, Suite 400
San Francisco, CA 94103

Dear Mr. Wycko,

I am a six-year resident of the Rincon Hill neighborhood and I'm writing to note my concern about the America's Cup plan for the Rincon Point Open Water Basin.

I'm very excited about the America's Cup race being in San Francisco and I'm also very supportive of most of the permanent and temporary measures being taken to accommodate the race. However, I think the potential for a permanent marina in the Rincon Point Open Water Basin is a huge mistake. This open area along The Embarcadero is a huge benefit to The City and to our neighborhood, which has very limited open space already. As one of the only open areas along The Embarcadero, it attracts people from around the world who are able to enjoy views of the bay, the Bay Bridge, Treasure Island, and the boat and ship traffic. We must not give this civic asset away on a permanent basis. 1 [AE-2]

I respectively request that the Planning Department deny approval of any permanent transfer of use of the Rincon Point Open Water Basin. Consideration should be given to other areas along The Embarcadero or even on Treasure Island rather than this location, if any permanent accommodation must be provided at all.

Respectfully yours,

John Rhodes

COM-348

I-Riley

From: Bill Wycko
To: Joy Navarrete
Subject: Fw: Rincon Point Open Water Basin
Date: 08/25/2011 10:00 AM

----- Forwarded by Bill Wycko/CTYPLN/SFGOV on 08/25/2011 10:00 AM -----

Michael Riley
<Michael.Riley@unionbank.com>

08/25/2011 09:26 AM

To "Bill.Wycko@sfgov.org" <Bill.Wycko@sfgov.org>
cc paula riley <priley921@sbcglobal.net>
Subject Rincon Point Open Water Basin

Dear Mr Wycko – I was stunned to find out that as part of the America's Cup we maybe considering a temporary dock at the Rincon Point Open Water Basin. This is one of the most beautiful spots in all of San Francisco with views of the bay and the bridge and to have it become a parking lot for large yachts would be a terrible decision. 1 [AE-2]
Please find an alternative.

Michael Riley
301 Main Street Unit 20G
San Francisco, Ca. 94104

****

This communication (including any attachments) may contain privileged or confidential information intended for a specific individual and purpose, and is protected by law. If you are not the intended recipient, you should delete this communication and/or shred the materials and any attachments and are hereby notified that any disclosure, copying, or distribution of this communication, or the taking of any action based on it, is strictly prohibited.

Thank you.

I-Roberts

From: Colby and Katherine Roberts
To: joy.navarrete@sfgov.org
Subject: 34th America's Cup Floating Dock and Development Rights
Date: 08/23/2011 03:27 PM

Dear Ms. Navarrete,

I wish to state my objection to the installation of a flloating dock in the open water along Rincon Park as requested by the organizers of the 34th America's Cup. Even more important, I wish to also state my objection to the host agreement between the city and the event authority that would allow long term development rights in Bay waters should any dredging be required by the installation of the docks. After finally opening up views to our beautiful bay by removing the freeway and creating the walkways that make these views accessible to our citizens and visitors to this area, it would be a travesty to have this kind of development take any of that away either in the short or long term. 1 [AE-2]

Please convey my objections to the members of the San Francisco City Planning Department.

Thank you for your kind attention to this matter, and for your support of efforts to preserve San Francisco's natural assets for future generations of San Franciscans.

Sincerely,
Katherine McKee Roberts
10 Curtis Street
San Francisco, CA 94112

COM-349

I-Rosas

Jonathan Carey

From: Johntommy Rosas [tattnlaw@gmail.com]
Sent: Monday, July 11, 2011 6:20 PM
To: Jonathan Carey; americascuptrust@gmail.com
Subject: Re: NOTICE OF AVAILABILITY of Draft Environmental Impact Report: 2010:0493E

Follow Up Flag: Follow up
Flag Status: Completed

thanks

we will be sending our serious concerns with this illegal proposed project

and the 1600 pages shows on the face theres a number of issues to review

which at 1600 pages divided by 45 days equals 35.55 pages to analyze and respond to

which unacceptable so we now request an extension of time to at least 60 days to comment

its legal and proper l to allow extensions on time especially on a complex proposal

thanks

1 [INT-3]

/s/ johntommy rosas

On Mon, Jul 11, 2011 at 1:56 PM, Jonathan Carey <jcarey@esassoc.com> wrote:

Please see the attached Notice of Availability for the Draft Environmental Impact Report for the 34th America's Cup and James R. Herman Cruise Terminal and Northeast Wharf Plaza.

--
JOHN TOMMY ROSAS
TRIBAL ADMINISTRATOR
TRIBAL LITIGATOR
TONGVA ANCESTRAL TERRITORIAL TRIBAL NATION
OFFICIAL TATTN E-MAIL CONFIDENTIAL
ALL RIGHTS RESERVED
TATTN / TRIBAL NOTICE OF CONFIDENTIALITY:

Confidentiality Notice:
This e-mail message, including any attachments, is for the sole use of the intended recipient(s) and may contain confidential and/or privileged information,attorney-client privileged Any review, use, disclosure, or distribution by unintended recipients is prohibited. If you are not the intended recipient, please contact the

I-Rosas

sender by reply e-mail and destroy all copies of the original message.

TRUTH IS OUR VICTORY AND HONOR IS OUR PRIZE >TATTN ©

COM-350

I-Rose2

RECEIVED
AUG 25 2011
CITY & COUNTY OF S.F.
PLANNING DEPARTMENT
MEA

Polly Rose
1330 Clement Street
San Francisco CA 94118

August 11, 2011

City Planner for AC34 EIR
San Francisco City Planning Commission
San Francisco CA

re: AC34 Environmental Impact Report

Dear Commissioners:

As a resident of San Francisco and a stakeholder in the waterfront community as a Bay swimmer and sailor, I value the prospect of the America's Cup races in our midst. However, aspects of the event raise numerous concerns.

Here are just three:

First, how will AC34 insure access to Aquatic Park during the course of the AC events? AQ is a very particular community resource. It is:

> The only swimming and wading beach in San Francisco that is safe for children;
>
> The only area allowing for competitive and recreational swimming as well as training for open water swim events;
>
> Home to a vital senior citizens' center, a maritime museum and 2 swimming clubs, all of which are used by the local community;
>
> A ***low cost*** venue for kayaking and rowing, biking, walking, family outings, picnics and similar outdoor activities.

The EIR takes absolutely no notice of these functions. To make AQ a prime viewing area for the race cuts off all other public uses for protracted periods of time. Unlike other venues -- for example the soccer fields at Marina Green -- there is ***no alternative space*** to Aquatic Park. The sand beach, calm water, and bay front public space are unique in San Francisco. How about installing a large screen videotron at Civic Center, where crowd management is easier and the weather, in fact, is far milder than at Aquatic Park.

Furthermore, there is no note of swimmers' events that take place outside AQ, primarily in the area of the Bay between the Golden Gate and Bay Bridges. These swims are important to many Bay Area residents. What are the provisions that allow these event to continue in the face of AC344? 1 [RE-2, RE-5]

Second, provisions for parking and traffic are vague at best. They lack specificity and are toothless. I city planners and the AC34 committee consult the traffic control plans for the 1984 2 [TR-2f]

I-Rose2

Olympics in Los Angeles be consulted. There, for example, delivery trucks and other vehicle trips in high impact were scheduled for evening hours and other off times. In hight impact neighborhoods, restrictions on non-resident vehicle traffic might also be instituted on expected high-volume days of week and times of days. (Last week, it took me 75 minutes to drive from Bay and Hyde Streets to the 3rd & Fremont St. entrance to the Bay Bridge. A Giants' game was letting out. There were no traffic cops; stop lights were not coordinated. It was a time and gas consuming nightmare. Is this a harbinger of AC34?) 2 [TR-2f] cont.

Third, the plan to simply abandon the newly installed shoreside power system for visiting cruise ships at Piers 27-29 is deeply disturbing. What are we doing? The far better question is what are we ***undoing***? The shoreside power system cost $5 million. And now it will be out of operation for years, resulting in tons of pollution spewed into our air. Where's the mitigation? In fact, in combination with poorly conceived transit plans, San Francisco will suffer significantly higher pollution. 3 [AQ-5]

I find these trade-offs unacceptable; I'm sure others do, too. Please address our community's concerns. We do want AC34 to work. It is a unique event situated in a unique place. But, we need sensitivity on the part of the AC34 organizing committee. From the Planning Commission, we need a clear eyed assessment of the impact of AC34 and effective solutions to the problems AC34 will cause for the quality of life in San Francisco and the Bay Area.

Sincerely,

Polly Rose

Polly Rose

Phone: 415-831-1612
email: tuwasok@earthlink.net

I-Rossi

From: Ross.James
To: Joy.Navarrete@sfgov.org; Bill.Wycko@sfgov.org
Subject: Rincon Point Open Water Basin please reject building proposal
Date: 08/25/2011 01:27 PM

Hello Ms. Navarrette and Mr. Wycko,

As a resident of SF and resident at 301 main st, I am opposed to the building of a waterfront postage area. As one of the few unobstructed areas of SF bay, adding a water port for large watercraft would negatively impact the neighborhood which is already lacking large park open space. Building on this sight will diminish the striking visual presence of this area and in turn diminish the enjoyment for all that visit this area. 1 [AE-2]

Please reject this proposal.

James Rossi
301 Main St

Sent from my iPad

I-Rynski

From: Jeanie Poling
To: Joy Navarrete
Subject: Fw: Comment on EIR - Americas Cup
Date: 08/22/2011 12:06 PM

----- Forwarded by Jeanie Poling/CTYPLN/SFGOV on 08/22/2011 12:06 PM -----

Rob Rynski
<rob@rynski.com>

08/22/2011 12:00 PM

To jeanie.poling@sfgov.org
cc
Subject Comment on EIR - Americas Cup

Hello Jeanie,

RE: America's Cup EIR. Open Water Basin Marinas

I strongly oppose any plans to build marinas in the Bay along the open space areas of the Embarcadero at the Rincon Point Open Water Basis and near piers 30-32 (Brannan Street Wharf Open Water Basin). Any consideration to build temporary or permanent obstructions in the Bay should be removed from AC34 planning. While I am excited about the coming of AC34 to San Francisco, this development would be a disaster to our amazing waterfront. I simply can't believe that this is even being considered. 1 [AE-2]

Regards,

Rob Rynski
582 Arguello Blvd
San Francisco, CA 94118

Landline: 415-379-4949
Rob@Rynski.com

I-Sasaki

From: anne sasaki
To: joy.navarrete@sfgov.org
Subject: usage of Aquatic Park during and before Americas cup
Date: 07/15/2011 11:33 AM

Dear Ms. Navarrete,
I am a swimmer associated with the Dolphin Club. I have been swimming four times a week for twenty years in Aquatic Park. I am a 30-plus year resident of San Francisco. I am very concerned about access to Aquatic Park and safety for all the people who swim there, as well as the tourists and people who use muni pier for walks and fishing/crabbing.

I am willing to attend meetings, write letters, phone Larry Ellison, whatever it takes to register my concerns. I do not believe it is appropriate for the Americas Cup to take over usage of Aquatic Park. 1 [RE-2, RE-3]

Please let me know the appropriate forum for my concerns. Thanks very much for your attention.
Sincerely,
Anne Sasaki
415 387-0224

I-Scholz

From: Sibylle Scholz
To: joy.navarrete@sfgov.org
Subject: America's Cup Impact on Aquatic Park swimming
Date: 07/14/2011 04:04 PM

Ms Navarrete
I just received the Environmental Impact Study of the America's Cub activity on Aquatic Park.
I swim there almost every day. The way I read this, I wont be able to have unlimited and free access to the swim area for 2 months during the races. Wau, that is really unacceptable. As it is, parking is challenging down there and with the proposed closing of the whole area, I wont be able to meet with my friends for my most cherished after work activity.

I am a home owner in San Francisco and I gladly pay my taxes. I even voted for the tax increase to fix out city's roads. But to make it difficult for me to go swimming for 2 full months, in August and September, which are the best months, is simply unacceptable. The plan of the America's Club has to be revised to assure the citizens of San Francisco to use their resources as intended.

1 [RE-2]

I am sure you agree
Sibylle

--
Sibylle Scholz, PhD
Agricultural Economist
Berkeley Engineering And Research, Inc.
2216 5th Street
Berkeley, CA 94710
Cell: 510-290-3533

COM-353

I-Schweisguth

From: Dave Schweisguth
To: joy.navarrete@sfgov.org
Subject: Comment on America's Cup draft environmental impact report
Date: 08/22/2011 10:02 AM

Ms. Navarette,

I'm writing in response to the draft EIR for the 34th America's Cup. It is completely unacceptable that temporary berthing of luxury yachts for the duration of the race could lead to permanent loss of the Rincon Point and Brannan basins. The Rincon Point basin in particular is some of the city's most beautiful waterfront, and no temporary benefit we might receive from the America's Cup could possibly compensate for the permanent loss of this valuable real estate.

San Francisco must reject the America's Cup plan until this loophole is filled.

1 [AE-2]

Sincerely,

--
Dave Schweisguth
http://schweisguth.org/~dave/ http://j.mp/dinab @daveschweisguth
Work: http://www.fandor.com/
for compliance with the NJ Right to Know Act: Contents partially unknown

I-Sebastian

From: PamSeb@aol.com
To: joy.navarrete@sfgov.org
Subject: 34th America's Cup Floating Dock and Development Rights
Date: 08/23/2011 04:17 PM

Re: 34th America's Cup Floating Dock and Development Rights

Dear Ms. Navarette,

We wish to state our strong objection to the installation of a floating dock in the open water along Rincon Park as requested by the organizers of the 34th America's Cup races/events. Even more important, we wish to also state our very strong objection to the host agreement between the city and the event authority that would allow long-term development rights in Bay waters should any dredging be required by the installation of the docks. After finally opening up views to our beautiful bay by removing the freeway and creating the walkways that make these views accessible to our citizens and visitors to this area, it would be a travesty to have this kind of development take any of that away either in the short or long term. Please convey our objections to the members of the San Francisco City Planning Department. 1 [AE-2]

Thank you for your kind attention to this matter.

Sincerely,

Pamela W. Sebastian
John C. Sebastian
5561 Diamond Heights Blvd.
San Francisco, CA 94131

COM-354

I-Seely

From: Bill Wycko
To: Joy Navarrete
Subject: Fw: America's Cup Environmental Issues
Date: 08/16/2011 05:50 PM

----- Forwarded by Bill Wycko/CTYPLN/SFGOV on 08/16/2011 05:50 PM -----

"Jim Seely"
<assnlaw@pacbell.net>

To <bill.wycko@sfgov.org>
cc <wkane@sfchronicle.com>
08/16/2011 04:27 PM Subject America's Cup Environmental Issues

I have read about the Commission's concern with such issues as whether the boats will run into seals.

Has the Commission yet addressed the larger environment issue as to what impact hundreds of thousands of people coming to the City will have on the quality of life of its residents? 1 [IO-1b]

Thank you, Jim

IETag Factory

James G. Seely, Esq.

Association Legal Services

456 Montgomery St., Suite 2000

San Francisco, CA 94104

Phone (415) 989-1122 Fax (415) 398-2820

www.assnlegalservices.com

I-Shey

From: Kevin Shey
To: joy.navarrete@sfgov.org
Subject: America's cup EIR
Date: 08/23/2011 12:18 AM

Dear Joy,

I am writing in respond to the solicitation for public comments for America's Cup (AC) EIR. I want to state emphatically that the current development plan for the upcoming the America's Cup should be a public outrage. It is obvious that San Francisco City is pandering to the rich and powerful spectators of the Cup, many of whom are foreign nationals.

It is unthinkable that the City and the public should be robbed of their right and access to an unobstructed waterfront view that is currently enjoyed by hundred of thousands of people each year. I frequent the proposed yacht slip construction area with my daily jog. I specifically go there to enjoy the unobstructed view of the bay bridge and the Bay. It disturbs me greatly EIR proposes to provide, yet, another corporate handout to the likes of the narcissistic Larry Ellison. 1 [AE-2]

The Cup's popularity rests mainly with the wealthy few, many of whom are foreign nationals from Oceania, and the Mid-East. The obstructed Bay view is enjoyed by local people of all demographics, and ethnic groups. It truly disgusts me that the city even contemplates such a sell-out proposal all for the sake of a boat race that most average Americans barely even notice.

Warmest regard,
Kevin Shey
San Francisco Resident since 1983

COM-355

I-Sizemore

From: laurie.sizemore@sbcglobal.net
To: joy.navarrete@sfgov.org
Subject: Proposed Planned Use For Rincon Point Open Water Basin
Date: 08/25/2011 12:48 PM

TO: Ms. J. Navarrete, Senior Environmental Planner

I am a year-round residents of The Infinity, facing directly the "Rincon Point Open Water Basin."

I read with great alarm that the Rincon Point Open Water Basin could be turned into a permanent commercial marina
after the 2013 America's Cup. I could tolerate temporary traffic congestion and temporary loss of the uncluttered
Bay view DURING the race in 2013.

BUT, I resolutely oppose/reject the possibility that the Basin be turned into a PERMANENT commercial marina. 1 [AE-2]

Please register properly my voice of opposition.

Sincerely,

Laurie Sizemore
301 Main Street #36B
San Francisco, CA 94105

I-St. Thomas

From: Ellen St. Thomas
To: joy.navarrete@sfgov.org
Subject: 34th America's Cup Floating Dock and Development Rights
Date: 08/23/2011 04:05 PM

Re: 34th America's Cup Floating Dock and Development Rights

Dear Ms. Navarrete,

I wish to state my objection to the installation of a flloating dock in the open water along Rincon Park as requested by the organizers of the 34th America's Cup. Even more important, I wish to also state my objection to the host agreement between the city and the event authority that would allow long term development rights in Bay waters should any dredging be required by the installation of the docks. After finally opening up views to our beautiful bay by removing the freeway and creating the walkways that make these views accessible to our citizens and visitors to this area, it would be a travesty to have this kind of development take any of that away either in the short or long term. Please convey my objections to the members of the San Francisco City Planning Department. 1 [AE-2]

Thank you for your kind attention to this matter.

Sincerely,
Ellen St. Thomas

I-Starkman

From: Ellen Starkman
To: joy.navarrete@sfgov.org
Subject: America's Cup EIR/Open Water BAsins
Date: 08/22/2011 07:10 PM

Dear Ms Navarrete,

I object to the plans for the America's Cup Race that would allow dredging and possible development of Rincon Point and Brannan Street Wharf Open Water Basins. These areas should remain as open space to be enjoyed and preserved for future generations. They are not proper places for a marina. San Francisco needs more open space and views, not less.

I'm not happy about the disruption that will be caused by the America's Cup since it is clear that my favorite places in the city – the Embarcadero, the Marina Green, and Crissy Field – will be unavailable for normal use. I'm willing to put up with temporary inconveniences but this plan for the open water basins will have a permanent and adverse effect on the residents of San Francisco. 1 [AE-2]

Sincerely,

Ellen Starkman

2424 San Francisco, CA 94116

San Francisco, CA 94116

I-Strassner

HOWARD STRASSNER
419 Vicente, San Francisco CA
phone 415-661-8786 email ruthow@dslextreme.com

August 24, 2011

Bill Wyko, Environmental Review Officer
Planning Department, FAX 558-6409
1660 Mission Street
San Francisco CA 94103-2414

Re: America's Cup

Dear Mr. Wycko,

The EIR should have considered alternatives to a City side berthing area for large private or corporate yachts. My almost fifty years of sailing on and walking around the Bay compels me to suggest an alternative.

San Francisco Bay has provided berthing for visiting large yachts before. Recently the Maltese Falcon, sail boat and a large Russian motor boat dropped their anchors near the sewer plant south of Sausalito. They used their auxiliary launches to access dry land destinations. This method is used at many popular cruising sites around the world. However, this area might not be suitable for a very large number of freely swinging large yachts. Small protected Ayala Cove in Angel Island provides permanent mooring buoys for a moderate number of small and medium sized visiting yachts for day and over night stays.

I suggest that the America's Cup could host large numbers of visiting yachts of any size on mooring buoys in the Bay south of the Ferry Building. Large tankers and freighter use the area south and east of this area as a temporary mooring area. The buoys could be used for the two years of competition and some might become permanent (this can be discussed later) . Of course the buoys would have to be located to provide lanes for: freighters; ferry boats and yachting traffic. The main Bay and connecting bays are filled with buoys to direct traffic safely. It should be easy to collect mooring fees to cover the cost of placing and removing the mooring and directing buoys.

My alternative will eliminate any permanent impact on those who visit the bayside on foot while providing reasonably protected mooring water for visitors.

1 [AL-1]

Sincerely yours,

Howard Strassner

COM-357

I-Suarez

From: John Graetz/Ana Suarez
To: joy.navarrete@sfgov.org
Subject: America's Cup proposal
Date: 08/22/2011 03:52 PM

Dear Ms. Navarrete,

I would like to express my strongest opposition to the possibility of recreational/commercial marinas being permitted long-term in the open water area along the Embarcadero/Rincon Park, as described in the 8/22/11 SF Chronicle article by John King. The is currently open water space right in front of a public park space and the great benefit of it for the general public, specially those who live in landlocked neighborhoods, is the great views afforded by this open access to the Bay. It takes protected public spaces such as this to give everyday people (both residents and visitors) the opportunity to experience the beauty that the San Francisco Bay Area has to offer. Otherwise the enjoyment of the Bay's beauty is reserved for the privileged few with enough money to buy access to it.

1 [AE-2]

Sincerely,

Ana Suarez
San Francisco property owner and resident

I-TaylorJ

From: jmtbass@aol.com
To: joy.navarrete@sfgov.org
Subject: No permanent marinas after America's Cup
Date: 08/22/2011 12:10 PM

Hi Joy,

I just read the article in today's Chronicle about the mega yacht marina and the possibility of a permanent marina being built on the site after the America's Cup.

I understand that the entire America's Cup will bring lots of money to SF. That is a good thing. But the idea of giving away open space is absurd.

I enjoy the view of the bay as I walk, bike or drive along the Embarcadero. I want to be able to see the water. It is bad enough that the mega yachts will block the view for the better part of a year. I could tolerate a brief interruption of my view, but not a permanent blockage. 1 [AE-2]

Please do not allow permanent marinas to be built on the waterfront.

Thank you,

Joseph Taylor
Visual and Performing Arts Department Chair
Galileo Academy of Science and Technology
1150 Francisco St.
San Francisco, Ca 94112
415-749-3430, ext 3556
taylorj@galileoweb.org

I-TaylorK

From: Karen Taylor
Reply To: Karen Taylor
To: joy.navarrete@sfgov.org
Cc: jking@sfchronicle.com
Subject: America's Cup EIR
Date: 08/23/2011 10:36 AM

Dear Ms. Navarrete:

I read with alarm John King's article in yesterday's San Francisco Chronicle about the possible threat to views from Herb Caen Way near the Ricon Point Open Water Basin. I would like to express my strong opposition to any form of berthing facilities -- either temporary or permanent -- in that area.

I am a proud Bay Area native and I work in downtown San Francisco. Several times a week, I enjoy a walk along the Embarcadero from the Ferry Building to AT&T Park. It is one of the true pleasures of working in the city. 1 [AE-2]

Blocking any views would be a huge detriment to the beauty of that area, and I urge that any such proposal be removed from infrastructure plans for the America's Cup.

Thank you for your consideration,
Karen Taylor

I-Thompson

From: Lawrence Thompson
Reply To: thompson14ster@gmail.com
To: joy.navarrete@sfgov.org
Subject: Reduce impacts of America's Cup on Bay environment
Date: 09/02/2011 01:11 PM

Dear San Francisco Planning Department,

The Department should develop pecific details about protecting our air quality from dirty diesel exhausts, our water quality from more litter, and the eco-sensitive shorelines at Crissy Field and habitats in the Presidio. 1 [IO-1b]

Sincerely,

Lawrence Thompson
1069 Felicia Court
Livermore, CA 94550

I-Tow

From: Lois Tow
Reply To: Lois Tow
To: joy.navarrete@sfgov.org
Subject: Draft EIR (Case No. 2010.0493E) for America's Cup
Date: 08/25/2011 03:59 PM

To: Joy Navarrete
Senior Environmental Planner
San Francisco Planning Department
1650 Mission Street, Suite 400
San Francisco, CA 94103

Dear Ms. Navarrete:

I am writing to express my concerns about inadequacies of the America's Cup Draft EIR (Case No. 2010.0493E).

While I agree that hosting the America's Cup in San Francisco will be wonderful boon to our city's economy, I advocate that it must not be done at the sacrifice of either the health of our bay or the access and enjoyment of the bay shore by the public. San Francisco Bay is a valuable and fragile resource.

The Draft EIR does not adequately protect marine wildlife in the bay especially from the extra boat/ship traffic and the pollution that could be produced by the entire event (on the water and on land). 1 [HY-9c]

The EIR does a poor job of addressing the impact of the proposed marina between the Ferry Building and the Bay Bridge (in the Rincon Point Open Water Basin.) 2 [HY-6, AE-2]

The proposed marina is in direct contradiction to the existing long-term plans for the waterfront and the bay. The basin is essential to the ecological health of the bay.

It is also a cultural and recreational resource of incredible beauty. I walk that stretch of the Embarcadero once or twice a week. It is a wonderful haven for pedestrians and for the marine wildlife that live in/pass through that large stretch of open water. I am enraged by the Draft EIR's lack of concern for the impact on the citizens of San Francisco if the marina is built there. This is not an insignificant issue to have our access and our view blocked for several months, and possibly permanently, for the convenience of a few yacht owners. Their yachts, some of which are as big as cruise ships, should be parked elsewhere, preferably spread out in small locations to lessen the impact on the bay and its denizens, both marine wildlife and humans. 3 [AE-2]

In addition, I am adamantly opposed to any dredging in the bay. If the sites proposed for marinas would require dredging, those plans should be denied and required to find another location which does not need dredging. The possibility that a permanent marina could be built in our highly valued open space is completely unacceptable. 4 [HY-4]

I am in complete agreement with John Kings' statement in the San Francisco Chronicle that, "...no short-term private event is worth the long-term loss of irreplaceable portions of our public realm."

Sincerely,
Lois M. Tow
455 Hazelwood Ave.
San Francisco, CA 94127-2129
(415) 586-2399
loistow@ix.netcom.com

I-Vaidya

From: Bill Wycko
To: Joy Navarrete
Subject: Fw: Comments on America's Cup 34 Draft EIR, Case No. 2010.0493E
Date: 08/25/2011 10:05 AM

----- Forwarded by Bill Wycko/CTYPLN/SFGOV on 08/25/2011 10:05 AM -----

Ash Vaidya
<ashishvaidya@gmail.com>

08/24/2011 08:43 PM

To "Bill.Wycko@sfgov.org" <Bill.Wycko@sfgov.org>
cc Jennifer Jolly <jennifer.vaidya@paribeauty.com>
Subject Comments on America's Cup 34 Draft EIR, Case No. 2010.0493E

Hi,

I'm inquiring on how we can voice our opinion on the rincon point being a permanent fixture after the 2013 cup. My wife and I live in the infinity towers ... How can we voice our concern this from being a permanent fixture? 1 [AE-2]

Thanks,
Ash

Ash Vaidya
Email: ashishvaidya@gmail.com
Mobile: (650) 218-0171

COM-360

I-Wade

From: Bill Wycko
To: Joy Navarrete
Subject: Fw: Comments on America's Cup 34 Draft EIR, Case No. 2010.0493E
Date: 08/24/2011 10:05 AM

----- Forwarded by Bill Wycko/CTYPLN/SFGOV on 08/24/2011 10:05 AM -----

npc
<isabelwade@gmail.com>

08/24/2011 09:39 AM

To Bill.Wycko@sfgov.org
cc
Subject Comments on America's Cup 34 Draft EIR, Case No. 2010.0493E

Hello,
Please convey my opposition to the permanent loss of open space proposed in the America's Cup plan for the waterfront with the addition of a marina. This is not a successful public/private partnership if at the end the city loses such an invaluable asset as an unobstructed view of the bay and the bridge-- all for a few private boat owners. What about water recreation users such as kayaks and their access to the bay? And surely there is a negative environmental impact of boats - having been a sailboat owner of 30 years-- gas, cleaning products, toxic paint on the bottom. Finally, this would be an extremely dangerous precedent for filling in our waterfront with other uses. Planning should now allow the permanent marina proposed. Thank you. 1 [AE-2]

Isabel Wade
Founder, Neighborhood Parks Council

I-Walker

From: Erik Walker
To: joy.navarrete@sfgov.org
Subject: America's Cup EIR
Date: 08/22/2011 08:37 AM

Hello Joy Navarette,

I would like to register a comment about the America's Cup plan to install either a temporary or permanent marina between Piers 14-25.

I think it's a terrible idea. I come downtown 2-3 times a week, to the YMCA. The open space and open vistas along this stretch of the Embarcadero make it probably my favorite place in San Francisco. The countless mornings I have walked along this part of the waterfront...it lifts my spirits every single time. It is an incredible view and makes me proud and happy to live in a city that has such a beautiful setting.

I am not enthused, at all, with the prospect of the waterfront being cluttered up with private boats. It's the only open waterfront part of San Francisco Bay in San Francisco (except for a couple of small spots down around Dog Patch and of course Crissy Field). I would be very very disappointed if this area was given a permament marina status at the conclusion of the America's Cup. 1 [AE-2]

Please come up with another solution for housing these well-to-do folk's boats.

thank you,

Erik Walker
San Francisco resident since 1976.

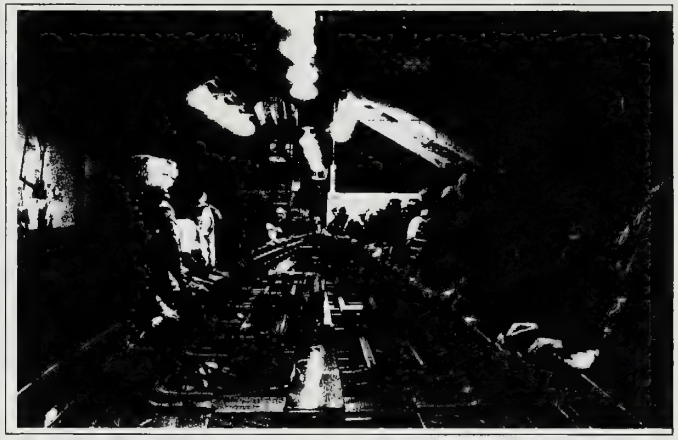
I-Walton2

August 11, 2011

TO: San Francisco Planning Commission
FR: Diane Walton
RE: The 34th America's Cup EIR 2010.0493E

As the Boat Captain at San Francisco's Dolphin Swimming & Boating Club, I want to reiterate our welcoming of America's Cup. We do, of course, have concerns about use of the Bay and of Aquatic Cove, as described in the Environmental Impact Report. Our fleet of wooden boats -- singles, doubles and the barge pictured below, the John Wieland-- as well as shells, kayaks and paddleboards does not comprise anywhere near the total universe of users, but we are representative of the recreational users of the Bay today, and we are sure the lure of the America's Cup will bring considerable additional recreational use over the next two years. The EIR seems blind to this use of Aquatic Cove and the Bay. The envisioning of Aquatic Cove as a TV-watching spectator venue, a safe haven or parking lot for AC craft, or simply a transitional area as people are moved from Fisherman's Wharf to Fort Mason, ignores history, geography and a variety of other elementary subjects. 1 [RE-2, RE-6]

Our rowers' and swimmers' safety is paramount, and we have a long history of successful interaction with other interests on the Bay in pursuit of that goal. We look forward to all parties learning how best to share the Bay, and I will be so bold as to suggest that, even if were not a requirement, we should all be reflected in the final Environmental Impact Report.



I-Wang

From: Bill Wycko
To: Joy Navarrete
Subject: Fw: Cup's yacht plan threatens our wide-open bay views
Date: 08/23/2011 01:57 PM

----- Forwarded by Bill Wycko/CTYPLN/SFGOV on 08/23/2011 01:58 PM -----

susan wang
<suwang3@yahoo.com>

To Bill.Wycko@sfgov.org
cc mayoredwinlee@sfgov.org
08/23/2011 12:49 PM Subject Cup's yacht plan threatens our wide-open bay views

Hi Bill,

I'm excited by the improvements our Embarcardero will undergo as a result of the SF Regatta. Please keep public views safe, and at a human-scale. 1 [GEN-4]

As a 19-year SF resident and a 6-year Rincon Hill resident, I am strongly opposed to plans to develop slips that accommodate boats over the current 165-foot ferries. Even yachts at 100-feet are imposing and will block public views.

I run along the Embarcardero every 2-3x a week, and agree with the sfgate article that "no short-term private event is worth the long-term loss of irreplaceable portions of our public realm."
http://www.sfgate.com/cgi-bin/article.cgi?f=/c/a/2011/08/22/MNV21KON7S.DTL 2 [GEN-4, AE-2]

I got your contact info from Jamie at the Rincon Hills Neighborhood Committee.

Thank you for your time and consideration,
Susan Wang
SF CA 94105

COM-362

I-Wertz

From: Louis Wertz
To: joy.navarrete@sfgov.org
Subject: Comment on Draft EIR for 34th America's Cup
Date: 08/22/2011 01:51 PM

Dear Ms. Navarrete (or whomever it may concern),

I would like to register my disbelief, as a concerned citizen and native of San Francisco, that the Draft EIR does not explicitly protect the open water values of Rincon and Brannan basins from injurious development by the America's Cup development authority. It is the planning department's responsibility to protect San Francisco's commons from development that does not benefit the people. Compromising the sublimity and beauty of the open water views along the Bay Bridge to Yerba Buena and Treasure Islands, and on to the East Bay and its stunning hills, so that Larry Ellison and his fellow billionaires can park their mega-yachts in our faces, is a gross misuse of that commons. Please revise the loophole that makes dredging these valuable areas of San Francisco Bay (to make room for the Hummers of the sea) in the economic interest of a few ultra-rich pseudo-sailors, so that San Franciscans are guaranteed these gorgeous bay views from the Embarcadero that were been so hard won in the first place. 1 [AE-2]

Best,
Louis Wertz

1650 Alabama St.
San Francisco, CA 94110

--
Louis Wertz
louwertz@gmail.com
+1 415 676-0122
Skype - Louwertz

From: Jamie Whitaker
To: Bill.Wycko@sfgov.org
Cc: Joy.Navarrete@sfgov.org; travis@bcdc.ca.gov; sean@bayareacouncil.org; ahalsted@aol.com; mayor@ci.berkeley.ca.us
Subject: Comments on America's Cup 34 Draft EIR, Case No. 2010.0493E
Date: 08/24/2011 11:49 PM

Jamie Whitaker
201 Harrison St. Apt. 229
San Francisco, CA 94105-2049

August 24, 2011

Bill Wycko
Environmental Review Officer
San Francisco Planning Department
1650 Mission Street, Suite 400
San Francisco, CA 94103

Re: Comments on AC34 Draft EIR

Dear Mr. Wycko,

The America's Cup 34 Draft EIR, Case No. 2010.0493E is insufficient and needs to be improved in regards to the following issues:

1) There is a gross oversight in the document regarding Treasure Island/Yerba Buena Island and the traffic, pollution, public safety, and other issues that will be created on the island itself, on the Bay Bridge, and in the Rincon Hill/South Beach neighborhoods during the America's Cup events. The Final EIR must take a sober look at what will happen when thousands of the 250,000-500,000 America's Cup attendees decide to view the events from the fabulous viewing spots available along Treasure Island's northern and western coastal areas, and they proceed to pull off of the Bay Bridge onto the island. Traffic congestion issues must be addressed, and a congestion charge should be considered for both Treasure Island and downtown San Francisco to help keep streets usable by police, fire, and emergency ambulance services. Even today without this large event happening, emergency response vehicles get stuck in the web of traffic surround the Rincon Hill neighborhood, endangering the safety, health, and welfare of residents, workers, and visitors in and around the Bay Bridge. Traffic congestion can be addressed with congestion charges, and we need a bold Mayor and leader to implement them for these events ... and an EIR that mentions this option to help mitigate the traffic and all of the negative health and public safety impact inherent in gridlocked streets. **1** [TR-3a]

2) The Rincon Point Open Water Basin should not be the only parking lot considered for the uber-rich mini-cruise ship luxury yachts that range in length from 100'-250'. The fact that the City supposedly wants to involve its citizens in this event should make this notion of parking 40' tall luxury boats along this wide-open stretch of open waterfront a non-starter. The EIR should be considering other locations entirely, such as Treasure Island, Angel Island, or somewhere in the middle of the Bay where they can leave their monstrosities and rent a water taxi or small speedboat if they need to come into Pier 1 and buy some soda pop and cheese. The draft EIR does not adequately address the lost vistas. The draft EIR does not **2** [GEN-1, AE-2, RE-1]

address the loss in recreation space for the over 700 children who count on Rincon Park as their only sunny, outdoor recreation space that isn't completely concrete and steel (as they do have little cages built right next to the various Bright Horizons and Marin Day School day care centers) - 700 KIDS from those daycare centers parked beside PG&E, Charles Schwab, Google/Gap, and there is also the Embarcadero YMCA which makes good use of Rincon Park, especially in the summer. The Draft EIR does not consider that many people who live along the Bay do not own vehicles and count on the recreational value of Rincon Park being maintained ... pulling out recreation statistics for locations west of Van Ness Avenue and south of 16th Street are ignorant by default because they ignore the fact that, unlike the writers of the EIR, the residents do not own cars and may not feel safe on MUNI nor have the time to ride MUNI for 45 minutes one way to get to a decent park/recreational space. The pollution from mega yachts, the noise from mega yachts, the regulatory issues if mega yachts start selling advertising on the side of their boats, the lack of anyone to police the disposal of waste from these megayachts, the nuisance of parties on these mega yachts .... the environmental damage of parking mega yachts in the Rincon Point Open Water Basin. Anyway ... this is THE issue that could kill America's Cup if the City insists on this blatant giveaway of public realm to the billionaires. **2** [GEN-1, AE-2, RE-1] cont.

3) Piers 32-36 Open Water Basin - See number 2, though there are not the same number of kids in day care centers nearby. **3** [RE-1]

4) There's no consideration given to the aggregate impacts of Transbay Transit Center construction, Central Subway construction, the construction that has already begun of 300+ apartment unit building at 333 Harrison Street, the construction likely to begin in early 2012 of the 300+ condo unit building at 45 Lansing Street, and possibly 399 Fremont Street in the next year or two as well. The traffic congestion that already exists today is deadly for all users of the streets, but especially pedestrians. **4** [TR-12]

5) Public safety is not properly considered in the Draft EIR. The fights at Candlestick during the pre-season Raiders vs. 49ers football game demonstrate how understaffed our police force is in San Francisco. As I mentioned previously, traffic congestion already blocks emergency response from getting over to the Rincon Hill and Financial District areas of downtown San Francisco. **5** [PS-4]

I certainly hope to see America's Cup succeed, but we need to have plans in place for traffic issues, public safety issues, aggregate impacts from many huge projects all happening at the same time around Rincon Hill/Transbay/Yerba Buena, the open water basins must be preserved as is (I know, this was that awful Mayor's Host Agreement contract, nothing to do with Planning), and strong consideration and plans for what will be done with Treasure Island .. I know people danced around Treasure Island while it was in the process of getting approved, but now that its approved, let's be smart and consider the impacts and potential of Treasure Island being a MAJOR DESTINATION during these events.

Thank you,
jamie whitaker

I-Whitaker

I-Witcoff

From: Lauren J Witcoff
To: Bill.Wycko@sfgov.org; Joy.Navarrete@sfgov.org
Subject: Comments on America's Cup 34 Draft EIR, Case No. 2010.0493E
Date: 08/25/2011 01:01 PM

Dear Mr. Wycko and Ms Navarrete,

As a resident of The Infinity, I am very distressed to hear about the potential plan to turn the Rincon Point Open Water Basin into a permanent commercial marina after the 2013 America's Cup. I chose to retire in the Rincon Hill neighborhood for its beautiful view of the waterfront and peaceful neighborhood adjacent to more bustling areas of San Francisco. As you know, this area becomes overwhelmed with traffic and pedestrians during Giants games, and I am concerned that creating a permanent marina will result in year-round congestion and noise. More devastating is the possibility for this project to ruin the Bay view from my condominium (which is of Pier 30-32) and subsequently hurt my SF real estate investment. 1 [AE-2]

Although I understand the need for construction to host the America's Cup, this should not set a precedent to permanently disrupt our beloved neighborhood and its associated marine life. Thank you for your understanding of these consequences.

Sincerely,

Dr. Lauren Witcoff
338 Spear St, Unit 14D
San Francisco, CA

Lauren J. Witcoff, M.D.
Center for Excellence in Pulmonary Biology
Stanford University Medical Center
770 Welch Road, Suite 150
Palo Alto, CA 94304-5848
lwitcoff@stanford.edu

I-Wittman

From: Colleen Wittman
To: Joy.Navarrete@sfgov.org; Bill.Wycko@sfgov.org
Subject: Comments on America's Cup 34 Draft EIR, Case No. 2010.0493E
Date: 08/25/2011 07:03 PM

Dear Joy and Bill,

I just wanted to take a moment to express my opinion about the Rincon Point Open Water Basin becoming a permanent commercial marina after the 2013 America's cup.

I, along with many other citizens with whom I have spoken, strongly oppose a permanent commercial marina in this location of San Francisco Bay. 1 [AE-2]

I live in San Francisco and very much enjoy walking along this part of the bay - what seems to me like the only remaining stretch of uninterrupted waterfront to walk along. A permanent dock with enormous vessels in this location would be such a shame.

Respectfully,
Colleen Wittman

Appendix PH

APPENDIX PH
Public Hearing Transcripts

This appendix contains the complete transcripts of the public hearing on the Draft EIR held before the San Francisco Planning Commission on August 11, 2001. Copies of all written comments received on the Draft EIR, including comments submitted either by letter, fax, or email, are included in a separate appendix, Appendix COM.

The public hearing transcripts are coded the same way as the written comments. Comments are grouped under one of three categories: public agencies, non-governmental organization, or individuals. However, the public transcript presents all oral comments chronologically, in the order in which they were presented at the public hearing. **Table PH-1** lists all of the commenters who presented oral comments at the public hearing alphabetically by category, indicates the corresponding comment code prefix for each commenter, and provides the page numbers of the transcript where their comments are located.

To facilitate the commenter in locating the responses to his or her comments, the EIR assigns a unique commenter code plus one or more topic code to each individual comment, as explained below. Both the commenter and topic codes are shown in the margin of the transcript, with the unique commenter code shown first and the topic code(s) in square brackets beneath the commenter code. This information shown in the margins of each written comment serves as the cross-reference guide for the commenter and topic codes.

Commenter Codes

This document assigns a code to each person that provided oral comment at the public hearing transcript based on the name of the agency, organization, or individual submitting the comment. Comments submitted by mail, email, facsimile, comment card, or orally at the public hearing (as transcribed in the official public hearing transcript) are all coded and numbered the same way. Each commenter code has three parts. It begins with a prefix indicating whether the commenter is from a public agency (A) or non-governmental organization (O) or is an individual (I). This is followed by a hyphen and the acronym of the agency or organization, or the individual's last name. The third part of the code is the sequential numbering of individual comments within a letter or email that represents a distinct topic. In the public hearing transcript, the comment codes are shown in the margin along side the individual bracketed comment. Only substantive comments received on the Draft EIR are bracketed; for example, comments that describe an agency's or organization's mission or that reiterate or quote sections of the EIR are not bracketed.

As an example of the commenter coding system, the comment letter from the National Park Service is coded A-NPS, and the first comment in the letter is coded A-NPS-01, the second comment on a different topic is coded A-NPS-02, etc. If a single agency, organization, or individual submitted comments more than once (or spoke at the public hearing in addition to submitting written comments), a number is inserted at the end of the identifying initials. For example, the National Park Service submitted comments both at the public hearing and in a letter; the first comment set is coded as A-NPS1, and the second set is A-NPS2. The subsequent sequential numbers denote the individual comments from that commenter (e.g., A-NPS1-01, A-NPS1-02, A-NPS1-03, etc.).

Topic Codes

The prefixes for the topic codes used in the organization of Chapter 12, Responses to Comments, are shown below:

General Comments: GEN
Introduction: INT
Project Description: PD
Plans and Policies: PP
Impact Overview: IO
Land Use: LU
Aesthetics: AE
Population and Housing [PH]
Cultural and Paleontological Resources: CP
Transportation and Circulation: TR
Noise and Vibration: NO
Air Quality: AQ
Greenhouse Gases Emissions: GG
Wind and Shadow: WS
Recreation: RE
Utilities and Service Systems: UT
Public Services: PS
Biological Resources, Upland: BIU
Biological Resources, Marine: BIM
Geology and Soils: GE
Hydrology and Water Quality: HY
Hazards and Hazardous Materials: HZ
Mineral and Energy Resources: ME
Agriculture and Forest Resources: AG
Other CEQA Issues: OC
Alternatives: AL

Within each topic area, similar comments are grouped together, and Chapter 12 provides a comprehensive response to those related comments under one topic code. Topic codes are numbered sequentially using the topic code prefix and sequential numbering for each subtopic. For example, General Comments [GEN] are listed as [GEN-1], [GEN-2], [GEN-3], and so on. Under each topic code in each section of Chapter 12, all of the commenter codes that are addressed under each topic code as a cross-reference. As described above, topic codes are shown in this appendix in the margin of the transcript in square brackets underneath the commenter code.

TABLE PH-1
PERSONS WHO PRESENTED ORAL COMMENTS ON THE DRAFT EIR AT THE PUBLIC HEARING, AUGUST 11, 2011

Commenter Code	Name of Person and Agency Submitting Comments	Page No. in Transcript
Agencies		
A-NPS1	Mike Savidge, National Park Service	pages 54 - 55
A-SFPC-Anto	Michael Antonini, San Francisco Planning Commission	pages 66 - 70, 81 - 82
A-SFPC-Fong	Rodney Fong, San Francisco Planning Commission	pages 82 - 84
A-SFPC-Mig	Ron Miguel, San Francisco Planning Commission	pages 64 - 65, 80
A-SFPC-Moore	Kathrin Moore, San Francisco Planning Commission	pages 71 - 76, 84 - 85
A-SFPC-Olag	Christina Olague, San Francisco Planning Commission	pages 78 - 79
A-SFPC-Sug	Hisashi Sugaya, San Francisco Planning Commission	pages 76 - 78, 80 - 81
Organizations		
O-Arc Eco1	Saul Bloom, Executive Director & CEO, Arc Ecology	pages 58 - 59
O-Baykeeper	Deb Self, Executive Director, San Francisco Baykeeper	pages 32 - 33
O-Dolphin1	Reuben Hechanova, President, *et al.*, Dolphin Swimming and Boating Club	pages 26 - 27
O-Dolphin2	Ken Coren, Vice President, Dolphin Swimming and Boating Club	pages 28 - 29
O-Ferry Bldg	Jane Connors, Senior Property Manager, Ferry Building, San Francisco	pages 55 - 57
O-FWCBD1	Kevin Carroll, Executive Director, Fisherman's Wharf Community Benefit District	pages 21 - 22
O-GGAS1	Mike Lynes, Conservation Director, Golden Gate Audubon Society	pages 45 - 47
O-GGNPC1	Doug Overman, Deputy Director, Golden Gate National Parks Conservancy	page 49
O-RDCE1	Dennis G. MacKenzie, Round the Diamond Consulting and Education	pages 8 - 9
O-SERC	Kimberly Ross, Vice-President, South End Rowing Club	pages 23 - 24
O-SFT	Jennifer Clary, President, San Francisco Tomorrow	pages 61 -63
O-SFTRU	Peter Strauss, San Francisco Transit Riders Union	pages 37 - 38
O-THD	Nancy Shanahan, Telegraph Hill Dwellers	pages 34 - 35
O-TIRN1	Teri Shore, Program Director, Turtle Island Restoration Network	pages 13 - 14
Individuals		
I-Anderson	Anderson, Jeff	pages 16 - 17
I-Bauman	Bauman, Buffy	pages 50 - 51
I-Blum	Blum, Jan	page 7
I-Bump	Bump, Cathy	pages 40 - 41
I-Coleman	Coleman, Kate	page 12
I-Czelusta	Czelusta, Jesse	page 44
I-Ferguson1	Ferguson, Sam	pages 59 - 60

TABLE PH-1 (Continued)
PERSONS WHO PRESENTED ORAL COMMENTS ON THE DRAFT EIR AT THE PUBLIC HEARING, AUGUST 11, 2011

Commenter Code	Name of Person and Agency Submitting Comments	Page No. in Transcript
Individuals (cont.)		
I-Gilbert	Gilbert, Brian	pages 35 - 37
I-Hammack	Hammack, Lee	pages 29 - 30
I-Harrison	Harrison, Donald	pages 39 - 40
I-Howell	Howell, Keith	page 25
I-Illick1	Illick, Joe	page 17
I-Krolik	Krolik, Steven	pages 41 - 42
I-O'Mahoney	O'Mahoney, Andrew	pages 60 - 61
I-Osborne	Osborne, Daniel	pages 15 - 16
I-Powning	Powning, Bill	pages 51 - 52
I-Robin	Robin, George	pages 9 - 11
I-Rome	Rome, Robin	pages 42 - 43
I-Rose1	Rose, Polly	pages 18 - 19
I-Walton1	Walton, Diane	page 31

SOURCE: ESA, 2011

BEFORE THE SAN FRANCISCO PLANNING COMMISSION

REGULAR MEETING

ITEM 7, CASE NO. 2010.0493E

34TH AMERICA'S CUP

AND JAMES R. HERMAN CRUISE TERMINAL

AND NORTHEAST WHARF PLAZA

PUBLIC HEARING ON THE

DRAFT ENVIRONMENTAL IMPACT REPORT

1:58 P.M.

August 11, 2011

Commission Chambers - Room 400

City Hall, 1 Dr. Carlton B. Goodlett Place

San Francisco, California

REPORTED BY: FREDDIE REPPOND, STENOGRAPHIC REPORTER

A P P E A R A N C E S

SAN FRANCISCO PLANNING COMMISSION:

President Christina Olague

Vice-President Ron Miguel

Linda Avery, Commission Secretary

COMMISSIONERS:

Michael Antonini

Rodney Fong

Kathrin Moore

Hisashi Sugaya

FOR THE PLANNING DEPARTMENT:

John Rahaim, Director

Joy Navarette

FROM THE PUBLIC:

Jan Blum

Dennis MacKenzie

George Robin

Kate Coleman

Teri Shore

Daniel Osborne

Jeff Anderson

Joe Illick

Holly Rose

Kevin Carroll

Kimberly Ross

Keith Howell
Reuben Hechanova
Ken Coren
Lee Hammack
Diane Walton
Deb Self
Nancy Shahanan
Brian Gilbert
Peter Strauss
Donald Harrison
Cathy Bump
Steven Krolik
Robin Rome
Jesse Czelusta
Michael Lynes
Doug Overman
Buffy Bauman
Bill Powning
Mike Savage
Jane Connors
Saul Bloom
Sam Ferguson
Andrew O'Mahoney
Jennifer Clary

--oOo--

Thursday, August 11, 2011 1:58 P.M.

--oOo--

P R O C E E D I N G S

SECRETARY AVERY: Commissioners, you are now ready to start Item No. 7, Case No. 2010.0493E, The 34th America's Cup and James R. Herman Cruise Terminal and North Wharf Plaza Project draft environmental impact report.

JOY NAVARETTE: Good afternoon, President Olague and Commissioners. I'm Joy Navarette of planning staff. I am joined by Chris Kern and Viktorya Wise, also from planning staff; and Joyce Hsaio of Orion Environmental; and Paul Mitchell of ESA, the environmental consultant for the project. And Dianne Oshima is also here from the Port of San Francisco, as the cruise terminal's project sponsor, and Mike Martin from the Office of Economic Workforce Development. Some folks are trickling in right now.

So the item before you today is a public hearing on the draft environmental impact report, or draft EIR, for Case No. 2010.0493E, the 34th America's Cup and James R. Herman Cruise Terminal and Northeast Wharf Plaza. Staff came before you with an informational presentation on the project on July 7th, 2011. The Historic Preservation Commission had its

hearing on August 3rd to formulate their comments on the draft EIR. There was no public testimony at that hearing and HPC continued their discussion to August 17th, next week.

Today's action is a public hearing on the adequacy and accuracy of the information contained in the draft EIR. And we ask that comments be focused on this. The draft EIR found significant unavoidable impacts related to land use, cultural resources, transportation and circulation, noise and air quality. The draft EIR found significant impacts that could be mitigated to a less than significant level on cultural resources, noise and vibration, wind and shadow, recreation, biological resources, geology and soils, hydrology and water quality, and hazardous materials.

There will be no decision today to approve or disapprove the proposed project. That hearing will follow final EIR certification.

We're here today to receive comments from the public and the Commissioners regarding the draft EIR as part of the environmental process required by the California Environmental Quality Act, or CEQA. The public and Commissioners should note that staff is not here to answer comments today. Comments will be transcribed and responded to in writing in the

comments-and-responses document which responds to all comments received and makes revisions to the draft EIR as appropriate.

There is a court reporter here today. And we ask that all commenters speak slowly and clearly. Also, we ask that you state your name and address so that we could send you a copy of the comments-and-responses document when we complete it.

After comments from the public, we will take any comments on the draft EIR from the Commissioners.

The written comment period began on July 11th, 2011, and continues until 5:00 p.m., Thursday, August 25th.

So this concludes my presentation and I respectfully ask that the public hearing on the draft EIR be opened.

PRESIDENT OLAGUE: Thank you.

We have several speaker cards.

Jan Blum, followed by Dennis MacKenzie, Teri Shore, Kate Coleman.

JAN BLUM: Good afternoon, Commissioners. My name is Jan Blum. My address is 2160 Leavenworth Street, Apartment 201, San Francisco, 94133. Thank you for holding this hearing.

I'm prepared for a one-minute comment. I'll

stick to that. The DEIR fails to recognize or mitigate negative impacts on the nearby neighborhoods. I'd like to site just one example of a negative impact which will be experienced in these nearby neighborhoods.

Noise. AC -- the America's Cup -- will have three helicopters hovering and flapping over the water. There will be cumulative noise vibration from motors and generators of idling spectator boats, official boats, an unknown number of high-speed-chase boats; and there will be noise from air horns, amplified sound from the AC villages, and noise from honking cars, motorcycles, and other motorized vehicles. This noise will be funneled uphill from the natural amphitheater, according to the AC description, into the nearby neighborhoods -- something like a reverse megaphone. This will go on from nine in the morning until eleven o'clock at night, nine days in a row. The nearby neighborhoods think these are serious and cumulative impacts.

I-BLUM-1
[NO-4, NO-7]

Thank you.

PRESIDENT OLAGUE: Thank you. You can just keep coming up to the mike after -- when you hear your name called, if you want to stand up over here -- however you want to do it.

DENNIS MACKENZIE: Thank you, Commissioners.

This is a copy of my proposal for the staff and Commissioners.

I'm Dennis MacKenzie, Round the Diamond Consulting and Education. I'm here to provide you a copy of my proposal that I have shared with the Port Commission, Port staff, City Hall, Mayor's office, boards, Mr. Larry Ellison and his Oracle team investors, as well as the San Francisco Unified School District.

I'm proposing that Mr. Ellison and the City, as well as the school district, create and construct a marine science career pathway academy as a part of this project in order that it can be, as you've mentioned, cultural and environmental impacts. And this project is on for three years. My proposal is to try to address the needs of our San Francisco public high school kids for many years, as this project is for three years. This facility would provide education and career guidance for kids for many, many years in the future. I am asking that all these parties involving, including Mr. Ellison, take leadership and build this facility and work with the school district as well as this Commission here to work together with everyone involved. There are many needs, as we all know, and many sectors of our country, economically, educational.

I-RDCE1-1
[GEN-5]

And our kids need real-world practical experiences in the classrooms so they can go out there and see what positions that exist in cooperation and shared vision that is necessary between the public and private sector.

I-RDCE1-1 [GEN-5] cont.

Thank you very much.

PRESIDENT OLAGUE: Thank you.

George Robin, Jeffrey Anderson, Daniel Osborne, J.E. Illick.

GEORGE ROBIN: Hello. I'm George Robin. And thank you to the Commission.

I'm opposing Section 5.11, recreational treatment, of the EIR. It does not adequately cover the recreational use of Aquatic Park. It includes seating where the bleachers are and on the beach. You're not going to sit on that beach at high tide and many people there. You've got room there or the sidewalk to put these TVs instead of these big loading jumbo TVs over there. Plus putting them on barges with high anchors, the wind blows pretty hard. You're going to need to anchor them down pretty well or you're going to have some vibrating TVs that get people sick. And why would they come to Aquatic Park to see the nice view to have it blocked by a floating TV? And not only that, but those anchors and those barges and that

I-Robin-1 [RE-2]

activity just for a floating television? Or the barge one is going to take some propeller-driven vehicles to maintain that.

There are swimmers in the water; and the one thing that is most scary to a swimmer is not the great white shark, it's propellers. Not only that, but sailboats as well. But generally they don't go so fast and they, as a rule in Aquatic Park, look out for swimmers.

The other thing, too, is there's a lack of alternatives. I would come out here and instead of these big screens I would like to have -- be able to say I would like Plan A or B or C. There's only one thing. Take it or leave it.

I-Robin-1 [RE-2] cont.

The other thing, too, is where these things are going to be placed. It's probably going to be facing the sun or the sun will be facing them. A better place would be where minimal impacts would be, not in the water, and at different angles where people can see the beautiful view.

And I'm talking like an engineer, but there are ways around this, because we're all excited about the America's Cup. Okay. But where this is proposing it's not a good idea at all. It really isn't. And I don't want to see some mishaps or anything like that.

And let's see. Also, electrical power for these things. Are you going to run that through the water from land or are you going to have some kind of a fossil-fuel-emitting generator on that barge? Which one is it going to be? I would be very careful swimming by a high-powered electric line just in case that thing ever has some kind of a leakage or electromagnetic radiation, even though it may be shielded.

And I guess that's about it. I'd like to see a little bit more done in that area. Thank you.

I-Robin-1 [RE-2] cont.

KATE COLEMAN: Hi. My name is Kate Coleman. I live at 1530 Addison Street in Berkeley, ZIP Code 94703.

I've been coming over to the Aquatic Park to swim and to compete for over 25 years. And I want to address both the recreational aspects and the culture of Aquatic Park. It is not just for some of us athletes and swimmers and rowers. But I know that every day that when I come over and walk past the rows of Russian immigrants sitting there and talking on benches. I pass families on the beach as a safe place for little kiddies to go. School kids come and they stay on the boats. I know that it's -- I've come here before when we had a parking issue on lower Van Ness.

But I know that if this America's Cup is going to take nine weeks out of our season, especially when it's more moderate weather, that means that it will not be used by thousands of people really, because it's not just us die-hard swimmers, but there's a thousand at a time swimming from Alcatraz. There are rowing regattas. And just sitting there in traffic trying to get to this area is a nightmare. So I basically will be cut off, as will many people who use this facility.

I think that the EIR, as far as I've seen some of this report, was written from Mars, because they talk about the alternative sites like Ocean Beach. There is nothing that is equivalent to Aquatic Park. There is nothing that can beat both the calmness -- the relative calmness of the water, the beach that you can walk into with no riptides. There is no place else in San Francisco that offers this kind of water recreation and just the joy of a beautiful scene for its citizens. And, also, that the elderly trying to each use -- I'm a senior citizen -- just being able to get to that senior center will be cut off. I would hate to see this rich man's project impede upon just plain folks in the whole Bay Area, not just San Francisco.

I-Coleman-1 [RE-2]

Thank you.

TERI SHORE: Hi. Yes. Good afternoon. My

name is Teri Shore. I am program director with seaturtle org. We're an ocean conservation group based over in Marin.

And, you know, I'm here today because I love the Bay and I love the America's Cup. But I must admit I'm getting a little bit of cold feet because the environmental prenuptial agreement, if you will, that has been written doesn't really go far enough to protect the Bay Area's air and water and marine life from the effects of the crowd, from the marine vessels, and from the waterfront development that is proposed as part of this project.

So I'm here to say that it could be a match made in heaven if the City works a little bit harder to put some teeth in the measures in the environmental impact report, such as for marine vessels and air quality is one of the biggest impacts that we're going to see. There are going to be vessels coming from all over the world. California has some of strongest standards right now for marine fuels and engines. So the City should demand that any other vessel that comes here from out of town has to at least meet our standards.

Another big concern is the cruise ship terminal. And I was here not too long ago to bring to

O-TIRN1-01 [IO-2]

O-TIRN1-02 [AQ-5]

O-TIRN1-03 [AQ-2, AQ-5]

your attention that the shoreside power installation where cruise ships are able to come into port, hook up to Hetch Hetchy clean power, shut down their dirty diesel engines, which was available last fall, is now going to be on temporary shutdown for one, two, or three years because of the Cup and because of the cruise ship terminal.

So we are urging the Port and the City either, A, not to shut it down and to reconfigure the event so it does not need to be shut down; two, move the shoreside power to another location; or potentially, three, if either of those are truly not feasible, come up with some other measure such as requiring biodiesel on the ships, requiring them to use the cleanest on-road diesel fuel in their engines or maybe building a clean new zero-emissions, non-diesel ferry to run crowds up and down the waterfront.

So I think that there is lot more that can be done if the City and the staff work just a little bit harder.

And I want to say that, like most of us, I'm excited about the America's Cup. I'm wearing my T-shirt from the last America's Cup in San Francisco, the Golden Gate Challenge. Yes, I was there in 1987 and I followed the team over to Australia, had a

O-TIRN1-03 [AQ-2, AQ-5] cont.

fantastic time. So you know, I'm pro-America's Cup and I think we can make it clean and green. So we urge you to work a little harder on that. Thank you.

And I also want to submit this letter that I submitted to the Port and to the America's Cup on the shoreside power which gives you a bit more detail about the emissions. Thank you.

DANIEL OSBORNE: Hello. My name is Daniel Osborne. I live at 2143 Jones Street. That's near Greenwich. And I have been swimming in Aquatic Park for somewhat over 50 years -- and many other locations in San Francisco Bay. After finishing swimming at Stanford years ago, I found this very receptive place. There's no other location in the entire San Francisco Bay area that is protected as Aquatic Park is for swimming. And I personally have participated in the rescue of a swimmer who was done in by a power boat. It was not a pleasant experience.

I-Osborne-1 [RE-2]

I would like to see the EIR address recreational use of the Aquatic Park, which it does not address. I even have knowledge of the 1900s' City Beautiful development of that area by Daniel Burnham which designated the Aquatic Park area for recreational use.

Even though I excitedly support the idea of

the America's Cup, I'm very skeptical of their commandeering Aquatic Park for the nine weeks of the summer season, which is the only time the water there gets up over 60 degrees and is pleasant for swimming. At least that should be addressed. And limitations to the use of power boats and other craft in that area which is so unique to swimming. I've tried swimming in practically every venue that you can imagine, up and down the east and west shorelines of San Francisco Bay. And none of them approach this for its accessibility and reliability of safety in open water. I would like to see that EIR amplified to address this issue.

I-Osborne-1 [RE-2] cont.

Thank you very much.

PRESIDENT OLAGUE: Thank you.

JEFF ANDERSON: Hello. My name is Jeff Anderson. I live at 1062 Fulton Street, San Francisco, 94117. And I'm a member of the Dolphin Club, a recent member, where they call me "kid" and "young man," which I enjoy. I have found the Dolphin Club to give me great benefit in my physical and my mental and spiritual health. And I would ask you as a Commission to protect that public area which many find to be of great use. Wide-screen TVs are not what I find to be sublime. We're talking about Las Vegas on the water. And we want to protect the sublime nature of Aquatic

I-Anderson-1 [RE-2]

Park.

And that's what I have to say. Thank you.

PRESIDENT OLAGUE: Thank you.

JOE ILLICK: My name is Joe Illick. I live in the Mission District. I've been a resident of San Francisco for almost 50 years.

I was astounded to read the draft EIR. And many of my concerns have already been voiced and I don't need to voice them again. But it does seem that Aquatic Park is being turned into kind of a carnival for several summers and I can't understand why. I was a historian for many years at San Francisco State; and I would like to know the history of this. I wonder what sort of promises must have been made to the America's Cup people to get them to come here and expect that that could happen in s San Francisco, that this great recreational area could suddenly be turned over to them and away from us. I swim there every day in the morning; and there are plenty of other people who can't get here because they must be at work who do the same thing; and we're very concerned.

Thank you.

PRESIDENT OLAGUE: Thank you.

Holly Rose, Keith Held, Kevin Carroll, followed by Kimberly Cross and Reuben Hechanova.

I-Anderson-1 [RE-2] cont.

I-Illick1-1 [RE-2]

HOLLY ROSE: Hello. I'm Holly Rose. I live at 1330 Clement Street.

Most of these concerns that I'm going to voice have been voiced previously, so I'm going to be as quick as I can be. I'm a resident of San Francisco, a recreational swimmer, and a San Francisco Bay sailor. I value the presence of the America's Cup here. However, there are aspects that are very concerning.

One is Aquatic Park. It is a low-cost venue for kayaking, rowing, biking, walking, family outings, picnics, and other things. It's the only swimming and wading beach in San Francisco that's safe for children; and it is home to a vital senior citizens center, a maritime museum, and two swimming clubs, all of which are used by the local community. The EIR takes no notice of these functions. There is no alternative space to Aquatic Park.

Furthermore, there's no note of swimmers events that take place outside of the park, primarily in the area of the Bay between the Golden Gate and Bay Bridges. These swims are important to many Bay Area residents. What are the provisions that will allow these events to continue in the face of AC34?

Provisions for traffic and parking are vague at best. They lack -- they're not specific and are

I-Rose1-1 [RE-2]

I-Rose1-2 [RE-5, RE-6, TR-2f]

I-Rose1-3 [TR-2f]

toothless. Last week it took me 75 minutes to drive from Bay and Hyde street to the Third and Fremont Street entrance to the Bay Bridge. A Giants game was letting out. There were no traffic cops; stop lights were not coordinated. It was a time- and gas-consuming nightmare. Is this a harbinger of AC34?

I-Rose1-3 [TR-2f] cont.

Third, the plan that simply abandons the newly installed shoreside power system for cruise ships is deeply disturbing. What are we doing? The far better question is what are we undoing? The shoreside power system cost millions of dollars. Now it will be out of operation for years, resulting in tons of pollution spewed into our air. Where's the mitigation?

In fact, in combination with poorly conceived transit plans, San Francisco will suffer significantly higher pollution. I find these trade-offs unacceptable. I'm sure others do too.

Please address our community's concerns. We do want AC34 to work. It is a unique event situated in a unique place, but we need sensitivity on the part of the AC34 organizers. And from the Planning Commission we need a clear-eyed assessment of the impact of AC34 and effective solutions to the problems it will cause for the quality of life in San Francisco and the Bay Area.

I-Rose1-4 [AQ-5]

Thank you.

PRESIDENT OLAGUE: Thank you.

KEVIN CARROLL: Good afternoon. My name is Kevin Carroll. I'm the security director of the Fisherman's Wharf Community Benefit District; and I have the privilege of working with all of our businesses and neighborhood organizations on Fisherman's Wharf almost every day of the year.

Fisherman's Wharf is definitely supportive of the America's Cup and we are proud that San Francisco has been able to acquire the event. We do believe that the event is already serving as the catalyst to help with transportation issues and other things that we can be benefiting from all year long, both before, after, and during the America's Cup. We actually applaud the City for working on the People Plan before the EIR and feeding into the EIR.

We want to specifically thank Mike Martin and Peter Albert, both from the Mayor's office and the MTA, for the outreach to our district especially to work with our groups on the transportation plan. And we've been able to supply input quite a bit back that's been helping us out as part of it.

Fisherman's Wharf is also working on a public realm plan that is traveling on a separate schedule,

but that's a plan that supports many of the initiatives that are related to the America's Cup, creating a more pedestrian-friendly and bike-friendly environment on Fisherman's Wharf.

Two of the areas that I wanted to just talk about today are related to transportation and the EIR. First of all, the E-line and the addition of the E-line, which would help bring passengers directly from Caltrain all the way up the waterfront all the way into Fisherman's Wharf is something we strongly support. **O-FWCBD1-01** [TR-4a]

In addition to that, the extra support for the F-line is something that's already needed desperately. And the EIR talks about that, how in some cases in some parts of the day it's running over capacity. We have visitors and employees who are watching trains go by that are filled with people. And it's exciting to see filled trains, but it's also very frustrating for our visitors and our employees that can't get onto trains over and over again. So we feel the work that's being done through the environmental impact report to help address that will help everybody all year long. **O-FWCBD1-02** [TR-4a]

The other area is the northbound Embarcadero and temporary closures and the discussions about it. We've expressed our concern through the development of **O-FWCBD1-03** [TR-3d]

the People Plan. When the northbound Embarcadero is closed, it basically cuts off our employees, our visitors, and a good portion of the people that are delivering products and supplies to the wharf. We are concerned that, if it is done a lot, it will actually stop our parking garages also. We have 6,500 parking spaces on Fisherman's Wharf. I believe I read in the EIR that there's 30,000 within the zone that's being considered. 6,500 of them are in Fisherman's Wharf alone. We want to make sure that we support the transit parts of it because we feel that that's really important. But we also want to make sure that when the parking lots can get filled so the revenue generated through those lots can be effectively used not only for our businesses, for the City of San Francisco too. So we want to work closely on that. **O-FWCBD1-03** [TR-3d] cont.

And the other area is the restricted access for the area for both residents, employees, and businesses. And we really would like to be part of that process when those discussions are made and had on how that will actually work. And we want to make sure we're part of that solution as well. **O-FWCBD1-04** [TR-3c]

Thank you for your time.

PRESIDENT OLAGUE: Thank you.

KIMBERLY ROSS: Hello. Good afternoon. I am

Kimberly Ross, vice-president of the South End Rowing Club, one of San Francisco's oldest institutions, which was founded in 1873. It's located at 500 Jefferson Street on Aquatic Park, where it has been since 1939. SERC is a nonprofit organization whose primary purpose is to provide advancement and enjoyment of aquatic sports in the Aquatic Park in San Francisco Bay. We are open to the public with over 800 members, many of whom are here today.

Our club acknowledges that the America's Cup coming to San Francisco is an exciting opportunity to showcase aquatic sport on the Bay. However, it also raises the following concerns.

In Section 5.5-15, there's a detailed history of Aquatic Park, but it fails to mention both the South End Rowing Club and the Dolphin Club located within Aquatic Park and have been for many years. **O-SERC-01 [CP-1]**

Table 3-1 of the EIR indicates that there will be up to 50 days of racing drawing up to 700,000 people to the area of Aquatic Park. And yet there is no plan to allow club members access to the South End Rowing Club nor to the water. **O-SERC-02 [RE-2]**

Table 3-1 also indicates that Aquatic Park will be a temporary berthing facility for racing boats, which will result in a huge increase in boat traffic in **O-SERC-03 [RE-2]**

Aquatic Park. But it does not address the need for the event authority to increase the control and regulation of Aquatic Park to keep the area safe for swimmers and small-craft rowers.

The installation of an LED video screen that is 44 feet wide by 22 feet high on a 140-foot-long barge in the middle of the current swimming lane at Aquatic Park is an unacceptable solution to provide viewing of the race. The better solution to this issue is to employ the long-standing practice of doing these types of setups at the Civic Center and other areas of downtown that are easily accessible and better suited for large crowds viewing events on a big screen. **O-SERC-03 [RE-2] cont.**

Most of the South End swimming and rowing events occur in the early morning at a time when yacht racing will not be occurring. Organizers must work with us to keep the Bay open to us and other recreational users during these non-racing times. **O-SERC-04 [RE-2]**

We look forward to a productive working relationship with the event authority to ensure that everyone enjoys America's Cup and it is a success for all of San Francisco.

Thank you for your time.

KEITH HOWELL: Hello. My name is Keith Howell. I live at 1592 Union Street, San Francisco,

94123. I am a member of the Dolphin Club and have been for 30 years. And much of what I have to say has already been said, so I will not repeat it too much.

But I was persuaded to come here because of the complete absence of any mention of the recreational activities within Aquatic Park in the EIR. A lot of people are not so much interested in spectator sports but in participatory sports; and that includes the 2,000 members of the joint Dolphin Club and South End Club. And it is surprising, the swimmers are swimming 365 days a year, 18 hours a day in those bays, and yet there seems to be no mention of it in the EIR. And I would like you to look into that.

I-Howell-1 [RE-6]

Thank you very much.

PRESIDENT OLAGUE: Thank you.

Brian Gilbert, Ken Coren, Dianne Walton, followed by Deb Self and Lee Hammack.

REUBEN HECHANOVA: Good afternoon, President Olague, Commissioners, Planning Commission, and also Planning Director Rahaim. I'm a familiar face to you, as much as I've been a citizen of San Francisco for some over 31 years. I live at 330 Funston in San Francisco. And as a citizen, I also wear many hats with you --

SECRETARY AVERY: State your name, please.

REUBEN HECHANOVA: Reuben Hechanova. My apologies.

I am also an architect, developer. As a citizen of San Francisco, have undertaken many other duties. And one of them is also president of the Dolphin Club. This place is a special place. It has its own heritage and culture, by which the activities that are undertaken are also at risk by the virtue of what is an omission by the report with regards to the activities and also the level of safety that is putting both the rowers and the swimmers also at risk. The water quality is also at risk. And impact of the access to both the club, not only for the members but as the club is open to the public it too is also at risk for accessibility. There's an invasion of land, sea, and air by which the impact will be strongly felt, not only by the club but also by the community in that the environment, the businesses, and the recreational components that has been undergoing this impact of what the America's Cup is going to do to that waterfront is also going to be significant. There needs to be a plan of action but which also shows concern and also respects the current activities.

O-Dolphin1-1 [HY-3, HY-9c, HY-9e, RE-2]

Along with that, this is a special place, in that if you look at what the environmental impact

O-Dolphin1-2 [RE-2, RE-6]

report is supposed to do so, it's also to identify the biological needs of those users. We are the last of two clubs along the waterfront. We are also in the category that we are part of the endangered species. And if you do not respect that, we are, having lived and swam and been active in San Francisco Bay for some over 134 years, we are not going to be around if the impact is significant to put us at risk. And if the environmental impact studies take into account all of those activities -- I thank you very much.

O-Dolphin1-2 [RE-2, RE-6] cont.

PRESIDENT OLAGUE: And if you heard your name, just start coming up to the mike. I'll keep calling them out.

Donald Harrison, Cathy Bump, Steven Krolik, Nancy Shanahan, Peter Strauss.

KEN COREN: Good afternoon, Commissioners, Madame President. My name is Ken Coren, C-o-r-e-n. I am the vice-president of the Dolphins Swimming and Boating Club, 502 Jefferson Street, San Francisco, 94109.

I have -- I think I am rather unique in this room, the Commission excepted. I have read this report. I have read this entire report. This report has to be taken seriously, but it was not written seriously, in my opinion. This report was supposed to

accurately assess impacts, identify them, and address how these impacts were going to be dealt with. With regard to Aquatic Park in particular, it failed to do so in a disingenuous manner by saying there are no impacts. The only way that can be done is to close your eyes completely to reality. The overview that I get from this draft report -- which is really the report other than comments and responses -- is that this event is seeking to use almost every square inch of San Francisco's waterfront -- and this is the Bay Area, and that Bay belongs to the citizens and visitors of this city.

O-Dolphin2-1 [RE-1]

In claiming every square inch of the waterfront, what the proponents have done is said we have primary viewing areas, and they get serious about that. And then in order to preserve their rights to the rest, they call them secondary viewing areas, and they make things up to justify their proposed use. Aquatic Park is one of those identified as a secondary viewing area.

If -- I call your attention to Section 5.11.3.2. They talk about, in the fourth paragraph, short-term disruptions of recreational uses. And they say -- and accurately in theory -- that a short-term disruption does not necessarily mean a significant

impact. And they say if you've got many bicycle paths and you're going to restrict use of one, not a problem.

They also talk about temporary disruption. That has nothing to do with the America's Cup being proposed. We're talking about six weeks one year, nine weeks the next year. If and when they win, this event comes back. Nine weeks of exclusion from the Bay, because the course cuts off the shore line.

O-Dolphin2-1 [RE-1] cont.

PRESIDENT OLAGUE: Thank you.

Feel free to submit any written comments that you have. Thank you.

KEN COREN: Will do. And thank you.

LEE HAMMACK: My name is Lee Hammack. I live at 3687 Folsom Street in Bernal Heights. I am a Dolphin member and swimmer since 1985.

And the first thing I'd like to say is what Ken said. And the other thing I'd like to say is I appreciate the opportunity that we all have to come here and speak, but I have this nagging feeling that a lot has gone on already on this matter and that hopefully this is more than window dressing. I hope you will take what everyone here is saying very seriously.

I-Hammack-1 [INT-3]

Aquatic Park used to be called Black Point Cove. And it has been an historic water recreation

I-Hammack-2 [RE-2, RE-6]

area for the city of San Francisco since the city was settled; and it remains so today. It's a special place for these clubs which serve so many people so well.

So I looked at the report in detail a few weeks ago and then scanned it again today. And my feeling is that the EIR report is incomplete at best.

Whether these items were skipped because they were viewed by the writers as sensitive or not, I do not know, but they have to look at Aquatic Park and the activities that go -- this report has to examine that.

And a lot of questions come to mind. How big is the super Jumbotron? Where will it be? Will there be a restricted area around the super-Jumbotron or the super-jumbo yachts? Will the super-jumbo yachts be going in and out of the cove or not? Will there be America's Cup, shall we say, staff in the cove enforcing certain restrictions on swimming or rowing or other uses of the cove? So I would like to see those details addressed. I think we all would.

I-Hammack-2 [RE-2, RE-6] cont.

And thank you.

DIANE WALTON: Chair and Commissioners, my name is Diane Walton. I live at 1410 Taylor in San Francisco. I have the rare privilege of serving as the boat captain at the Dolphin Club.

And the disparity between some of the

sections that have been referred to and the life that we lead on the Bay is striking.

I-Walton1-1 [RE-1]

I would ask that you look at the dearth of respect that has been given to recreational use. And we can give you numbers and pictures and stories and all kinds of things. But really, really to take that into very serious consideration, because it has been given short shrift.

I-Walton1-2 [RE-5]

The other piece that has been -- and I would prefer to look at it as a blink, not as somebody asleep at the wheel -- but the cultural aspects of the cove and of the Bay. There's a very strong network of interaction that happens that allows people to be safe on the Bay, that allows our swimmers and our rowers to be safe. We interact with commercial traffic all the -- we have ways to do this. And that also was not known from somebody who just read that report.

Thank you.

PRESIDENT OLAGUE: If you heard your name, you can start coming up in any order really.

DEB SELF: Good afternoon, Commissioners and staff. My name is Deb Self. I'm the executive director of San Francisco Baykeeper. I am here speaking on behalf of our approximately 2,000 members in San Francisco. We have significant overlap in terms

of members and mission with the Dolphin Club. And I'd like to echo their many comments about the importance of preserving the cultural nature and the public trust asset that is in the historic Aquatic Park.

O-Baykeeper-01 [LU-5]

There may be other Dolphin Club members to come up, but I will segue into water quality issues as well as the protection of the Bay shoreline.

Personally, I'd like to say that Baykeeper is one of about thirty-two groups working together in very close coordination with the city, offering technical comments in support of very good environmental planning. To that end, we worked with the City to provide comments on an early administrative draft of this document and Baykeeper alone submitted over 90 pages of impacts and recommended mitigations. We're feeling we're going to make progress through the supporting plans for the City and we are acting in good faith to continue that dialogue. I will say that Baykeeper along with the other members of the environmental council were surprised to see so little of our comments incorporated into this actual draft.

O-Baykeeper-02 [INT-4]

Our main concern is the level of detail, which is very small. There are references to many plans which need to be brought into the CEQA process; and if they are going to be referenced, then those have

O-Baykeeper-03 [PD-7]

to be finalized before the final EIR.

Otherwise, performance measures and goals and actual methods for mitigation have to be included in the final EIR. The reason I say this is because our legal team and our science team is very concerned that this EIR, if it's issued anywhere close to the current draft, will leave the City open to litigation.

Now, we are not interested in going there. We're working very hard in advance proactively with the City to try to avoid any kind of legal problems. But there are many who will take that opportunity if the City does not get the final EIR right.

So I would like to thank the Commission for its serious review of the document. I'd like to thank the City for its continued work, because there's a long way to go between now and the final. And we look forward to continuing to help them. Thank you.

PRESIDENT OLAGUE: Thank you.

NANCY SHANAHAN: Commissioners and staff, my name is Nancy Shanahan. And I am here to comment on the draft EIR on behalf of the Telegraph Hill Dwellers.

THD is a member of the America's Cup environmental council and shares the overall concern that the draft EIR underestimates a wide range of impacts and has inadequate mitigation measures. We

O-Baykeeper-03 [PD-7] cont.

will be submitting detailed comments. I will focus on one of the primary issues with the DEIR here.

This DEIR is defective in purporting to analyze today the impacts of the long-term development rights over a significant number of Port properties to be transferred to Mr. Ellison's development organization after the America's Cup, even though the EIR admits there is no detailed project-specific information on these future projects.

The strategy driving this EIR is to cloak what should be program-level EIR in the clothing of a project-level EIR so that any CEQA review for later development approvals would be governed by Section 21166 of CEQA, which will tilt the playing field in favor of future developers and against the City, the Planning Commission, and the public by disguising the true nature of this EIR. In other words, it will limit or avoid CEQA review of future unknown waterfront development projects resulting from the proposed agreement. The draft EIR concludes that it analyzes, quote, long-term development options at a conceptual level because there is no detailed project-specific information.

And at the same it goes on to say that, it quote, ensures comprehensive environmental review of

O-THD-1 [IO-5]

the project as a whole. This is an oxymoron. Because the long-term development portions of the project are not known, a comprehensive environmental review of the project as a whole is simply impossible.

Even if this EIR is considered a project-level EIR for the race event and the cruise ship terminal, it is inadequate to define it as a project-level EIR with respect to the long-term development rights project.

The EIR must be clear that each future project will be analyzed under CEQA at a project level only when the specific details of that project are known.

Thank you in advance for addressing these matters in the final EIR.

O-THD-1 [IO-5] cont.

BRIAN GILBERT: Hello. My name is Brian Gilbert and I am a member of the Dolphin Club.

And I will be honest with you. I have a very serious personal interest in this thing. I am partially disabled by joint pain. And I've tried a lot of remedies. And about the only thing that seems to be efficacious is immersion in cold salt water. If you have never had this kind of pain, then congratulations. But it's a wonderful therapy. And there are a lot of people in the Dolphin Club who avail themselves of this

I-Gilbert-1 [RE-2]

same therapy, not as serious as mine. But it is mental therapy as well as physical therapy.

The project that is proposed would impact this really severely. I mean you cannot seriously put these things in the cove and not seriously impact the swimmers.

It is a great comfort to me that if I go down and I immerse myself in that water and if for some reason, I'm suddenly enfeebled, there are a thousand members of the Dolphin Club and maybe eight hundred of the South End that will come to my assistance and help me out. This will not happen with the Jumbotron kind of thing that is going into the cove.

I-Gilbert-1 [RE-2] cont.

As George pointed out, it will have to be supplied by cables from the shore or perhaps use generators sitting right on the thing, which will be a source of noise and pollution. If the cables go from the shore, all it would take would be a momentary short, and anybody in the water would be electrocuted. This is a serious consideration.

I-Gilbert-2 [RE-2]

Now, you know, I am distressed because everybody that comes to San Francisco gets some kind of compassion, but the residents seem to be overlooked in this. I've had to drive around and been completely prevented by driving from everything from parades,

I-Gilbert-3 [TR-3a]

movies being shot. I had a sports car rally go past my house and pin me inside my building for two hours one Saturday morning. A sports car rally from City Hall.

Please, think a little bit about the residents and not so much about the tourists. Thank you.

I-Gilbert-3 [TR-3a] cont.

PRESIDENT OLAGUE: Thank you.

PETER STRAUSS: Good afternoon. I'm Peter Strauss and I'm here as a member of the San Francisco Transit Riders Union and I've also been participating in the environmental council.

We have been working with the City's team for the past six months and we very much appreciate the opportunity to have been involved extensively since early only. We also appreciate the amount of work that has been conducted in a very compressed period. And personally I'm hopeful that there are some lessons here on how the normal environmental process can be expedited, but that's a topic for another day.

We look forward to continuing to work with the City's team in improving the environmental documents and the City's preparations for these events.

At the same time -- and I think you heard this from other people as well today -- we feel both concern and some frustration that we've not received

O-SFTRU-1 [INT-4]

feedback from our efforts to comment early. Nor are the concerns that we have expressed to date been expressed in the DEIR document as it was released.

O-SFTRU-1 [INT-4] cont.

I'm not going to go into all of the details today, of course, but a broad concern is that the document, massive as it is, still seems to repeatedly understate the impacts of the race events on the city and the Bay.

And it also, as you've heard, lacks specificity -- I'll say the word -- in many regards.

Our feelings about the understatement of some of the impacts is reflected in issues that span from understating impacts on the Bay to understating the likely impacts on locations such as Inspiration Point, where observers are likely to gather, to understating the impacts on the Muni system and its riders. For Muni, this will lead to more disruptive impacts on regular riders on event days as well as a less positive experience for visitors. And we are concerned that the funding available -- and this is important -- will prove inadequate to address the City's needs.

O-SFTRU-2 [TR-4c]

When impacts are understated, the consequences include increased impacts on the neighborhood and increased costs to the City, for which we will not be prepared. To avoid that is what good

planning is about and I think that's what we all hope to see out of this process.

Thank you for the opportunity to come here today.

PRESIDENT OLAGUE: Thank you.

If I've already called your name, please feel free to come up to the mike.

Good afternoon. I'm Donald Harrison. I joined the Dolphin Club in 1980. I conducted quite a number of swims and done some boating on the Bay ever since. I would like to second what's been said so far by all the others. And welcome, America's Cup. I am excited. I hope Mr. Ellison wins it.

However, I can't understand anybody spending the kind of money in preparation for this that they plan to spend and not have an impact. No impact seems like a very poor return on investment. But think about that.

There is an alternative I haven't heard suggested. Just east of Hyde Street pier, quite a large number of dollars were spent to house and provide for boats to tie up -- fishing boats. That is not used all the time. That would provide an excellent place to moor a barge or two, tie up a low of the power boats and sailboats. I think that should be considered.

I-Harrison-1 [RE-2]

That would likely have no impact or much less impact than it would on Aquatic Park.

There is a viewing area for the Jumbotron on Hyde Street pier, probably equal in size to what there is from Aquatic Park.

I would like that to be considered. Thank you.

I-Harrison-1 [RE-2] cont.

PRESIDENT OLAGUE: Thank you.

CATHY BUMP: Good afternoon. My name is Cathy Bump. I am a 10-year member of the South End Rowing club. Thank you for the opportunity to address this EIR.

My colleagues have spoken eloquently today about both the culture of the Bay and the enjoyment that hundreds of us have taken from, especially Aquatic Park, but all over the Bay for over a hundred years now as members of these clubs. And also about the serious dismay as far as this inexplicable omission of any discussion at all -- complete omission of the activities that take place in Aquatic Park, as well as -- except for some passing references -- the other swims that take place.

As has been noted, we do swim from Golden Gate Bridge down to the Bay Bridge. But particularly in Aquatic Park, I would ask that the Commission

I-Bump-1 [HY-9c, HY-3, HY-9e, RE-2]

seriously take a look at the safety issues related to boats particularly as well as water quality.

It feels like this process has gone pretty far down the road. And, again, we hope that we can nonetheless take the time to take a serious look at these issues, especially related to Aquatic Park. Thank you.

I-Bump-1 [HY-9c, HY-3, HY-9e, RE-2] cont.

STEVEN KROLIK: Good afternoon. My name is Steven Krolik. I'm a life member of the San Francisco Dolphin Club; and I have been swimming at Aquatic Park since the old days of the old Lowell High School. So that goes back to the 1950s and early '60s.

The issue here -- and I'm a little embarrassed to bring this up, but this is going to be for the public record. There's a great disappointment about the way Aquatic Park and its restrooms are being handled. We are a world-class city. We have our own people to be considerate of and also those that are coming in from around the world for this affair. The GGNRA and the National Maritime Museum have not participated as they could or should as far as sanitation and hygiene. We are finding people defecating and urinating on our beach, where we bring our children, our families, and where the tourists are coming. If you're going to have this event and you

I-Krolik-1 [UT-2]

want to have a quality event, may I encourage you through this City and County government, to address this to the National Maritime Museum, to get those two restrooms working. They are now dysfunctional. They are not working and people do know at times where to do their thing. And in some cases they're -- it's unhygienic to be on our beaches.

I am also the coordinator for the Presidio Heights Residents for Public Safety; and I think this is a health issue of the public safety for all of us. I recommend that address, get those restrooms open. And this will contribute to the success of this event; and it will also keep the water quality control up for the thousands of swimmers that participate at the Dolphin Club and the South End Rowing Club.

I thank you for addressing this important issue for all of the people of San Francisco and the tourists who are coming in. Thank you.

I-Krolik-1 [UT-2] cont.

PRESIDENT OLAGUE: Thank you.

Robin Rome, followed by Jesse Czelusta, Megan Sullivan, Michael Lynes, Douglas Overman.

ROBIN ROME: Hello. My name is Robin Rome. And I'm also a life member of the Dolphin Club.

And in the report, the recreational aspect of the impact hasn't really been specified. To think of

I-Rome-1 [RE-2]

us -- our Dolphin Club swimmers and boaters -- as being aquatic life. There is a lot of aquatic life that we're concerned with: Bottlenose dolphins. But we are out there -- I added up over the winter how many miles a group of people that marked it off. They swam 5,700 miles in the Aquatic Park area; and that is just the people who wrote it down. So, we are taking care of our recreation. That is our main area to do it. The boats that we send out all the time. We build our own boats there. We are in awe of the America's Cup, that we get to see more aquatic life going out there. Get to see a sport happening out there. We get to be spectators. But we are participants and we would like to continue being participants. And even though people talk about the big TV being in our course, the entire Aquatic Park is our course and sometimes a little bit outside of Aquatic Park.

So I would like you to be able to think about and consider our needs and the needs of all of the citizens in San Francisco and around the world that come to Aquatic Park.

Thank you.

PRESIDENT OLAGUE: Thank you.

JESSE CZELUSTA: Good afternoon. My name is Jesse Czelusta. I live at 2975 Van Ness, just three

I-Rome-1 [RE-2] cont.

blocks from Aquatic Park. I am a recent addition to the Dolphin Club.

And I'm here for a couple of reasons. Number one, I don't want to get hit by a boat. And, number two, if you'll excuse the turn of phrase, I don't want to see the city which I love get its Speedo suit off, which is not a low-probability event if there are boats and swimmers in the same environment.

I would also like to disagree with the previous comment. I don't think we are an endangered species. I thought that we were when I moved here. But if you go down to Aquatic Park on any given day and count the number of swimmers who go in, it's not just the Dolphin Club, it's not just the South End Club. There are crazy triathletes, crazy runners, crazy swimmers. There are a lot of people who use that area to swim.

And you may have noticed this: People who swim in the Bay tend to be a little bit hard-headed. It's going to be very difficult to keep them out. There will be swimmers in the Bay. And so I think it's very important to consider the impact on those swimmers of having boat traffic in that area.

And then the last thing that I'd like to do is invite each of you down to the Dolphin Club to swim

I-Czelusta-1 [RE-2, RE-5]

with us and see what it's like. It's a great experience.

Thank you very much.

MICHAEL LYNES: Hello. My name is Michael Lynes. I'm the conservation director with the Golden Gate Audubon Society. And I wanted to speak specifically about our concerns and the concerns of our many members that live in San Francisco and in the broader Bay Area about impacts from this project on wildlife and habitats.

I think what we have already heard a bit today from many of the members of the public is that the DEIR feels incomplete. It feels very much like a plan that is still in the process of being made. We were struck when we read it about the inadequate description of impacts and inadequate description of the number of people that might go to different sites. And as a member of the public, that made it very difficult to assess whether the mitigation measures and the impacts that were described were adequately described in the DEIR. And it makes it very difficult for us to provide meaningful comment. And so we have to sort of assume the worst about the situation.

I also want to reiterate what has already been said, is that many members of the community have

O-GGAS1-01 [IO-1a, PD-5]

O-GGAS1-02 [INT-4]

already spent hundreds of hours working to help this project happen, not in opposition to it, but to help it with good planning. And most, if not all, of those comments were pretty much ignored in the DEIR. And that does not set a very good precedent for -- I was going to say "smooth sailing," so pardon the pun. Totally unintentional.

And so I think that it's very important to keep in mind if we want to avoid trouble in the future, then the comments from the public need to be taken very seriously.

Very quickly, I want to identify certain biological impacts that we are concerned. The DEIR does not identify all the species, particularly birds, that will suffer impacts -- from direct impacts from the crowds, as well as direct impacts on the water from interactions with boats. It underestimates the impacts both on land and in the water. And we're talking about lights, noise, pollution, trash, collisions with power boats, helicopters, and exceptionally large crowds.

And while it fails to estimate all these, it also does not provide for adequate mitigation. I will tell you that when I read it and when many of my members read it and provided me with comments to provide to you today, it struck them that there was a

O-GGAS1-02 [INT-4] cont.

O-GGAS1-03 [BIU-4]

O-GGAS1-04 [BIU-5a]

sense that they were trying to do it on the cheap. And they thought, Why would Larry Ellison and why would these people worth hundreds of millions of dollars or whatever this project is going to be try to cut corners on mitigations for impacts to the environment? It seems unnecessary.

On land they seem to rely primarily on signage and educational efforts. They are going to have to do more to actually protect the dunes and the wildlife in the GGNRA, specifically in The Presidio. On the water they seem to rely almost entirely on what seems to be some kind of a brochure provided to mariners. They don't describe how they're going to get that educational materials to them and they don't provide any other means for mitigating what we know will be direct impacts.

I'd like to remind you that we've already lost 40 percent of the open-water Bay habitat in the Bay since we have been developing it and living here for over a hundred years. And these birds deserve better stewardship from us.

So, again, we are not against the project. We want to help plan it. But we encourage the City to take our comments seriously in order to avoid delay.

DOUG OVERMAN: Thank you, Commissioners.

O-GGAS1-04 [BIU-5a] cont.

My name is Doug Overman. I'm deputy director of the Golden Gate National Parks Conservancy. And I'm here today to express our dedication to Crissy Field and all those who love and regularly enjoy this National Parks site.

It's our strong conviction that the America's Cup organizers must ensure that the resources, public use, and community benefits of this National Park are treated with great care and stewardship. We urge the event organizers to take responsibility for the added operational costs of hosting this event in the National Parks and for the expected wear-and-tear on park facilities and resources.

Crissy Field is among the most beloved open spaces in San Francisco, serving a diverse audience and contributing immensely to our local quality of life. 2011 marks the 10th anniversary of the Crissy Field restoration and of the opening of the Crissy Field Center, an award-winning urban environmental educational center on the site. Led by the Parks Conservancy and the National Park Service, the restoration of Crissy Field and the creation of the Crissy Field Center were accomplished with $36 million in generous support from the Bay Area philanthropic community and thousands of volunteers. Crissy Field is

enjoyed by over a million park visitors each year.

America's Cup clearly has the prestige and appeal to draw hundreds of thousands more people to this shoreline national park. Record crowds, over 50 days or more during two peak visitor seasons have the potential to displace current park users, overwhelm daily operating systems, and stress or damage valuable park resources. Park use at this scale also could jeopardize the Crissy Field Center's ability to serve the young people who rely heavily on the park for their programs.

We understand the importance of Crissy Field to the America's Cup. Our key concern is that the DEIR does not define how these impacts will be mitigated and what resources will be made available for that service.

So specifically we ask for support to, one, help us ensure public safety, security, and access at Crissy Field. Protect Crissy Field as a vital community resource. Preserve the vitality of Crissy Field's education and volunteer programs. Define mitigation measures for Crissy Field and other National park sites. Identify financial resources for event preparation and management, crowd and traffic control, and post-event repair and restoration.

O-GGNPC1-1
[RE-7]

San Francisco Bay and its surrounding

parklands will help make the 34th America's Cup memorable and historic. We simply call for measures to protect Crissy Field and the National Park that our community worked so hard to create and care for. Together we can ensure a positive legacy for America's Cup while protecting the Bay Area's beloved National Parks.

Thank you very much.

PRESIDENT OLAGUE: Thank you.

Buffy Bauman, Bill Powning, Mike Savage, Saul Bloom, followed by Jane Connors.

So if you heard your name, you can start coming up to the mike.

BUFFY BAUMAN: Hello. My name is Buffy Bauman. I am a San Francisco resident and I sail on the Bay. And I just want to thank you very much for this opportunity for comment.

I am also a Bay and ocean conservation advocate. My primary concern is that there are insufficient protections for the marine wildlife and mammals both in and outside of the Bay; and apparently this includes the two-legged mammals.

I-Bauman-1
[BIU-1]

And I feel that there is a lack of specificity as to how these protections are going to be addressed.

I just want to give you a few suggestions as to some things that you might like to consider. One would be slowing the vessel traffic down in order to avoid collisions with marine wildlife. That does not mean the racing vessels, just to be clear.

Prohibiting noisy personal watercraft on the race course, as they are already banned in most of San Francisco.

And then rigorously enforcing laws to prevent plastics and trash from going overboard. Among other impacts, they can result in entanglement with wildlife.

So those are just the things that I would like for you all to consider as you move forward with this process.

Thank you again for the opportunity to comment.

BILL POWNING: Hello. My name is Bill Powning. I am a life member of the Dolphin Club. I have been swimming in the Bay since the late '60s. Thank you for the opportunity to address you. I'll try not to repeat all of the things that the previous Dolphin Club people have been telling you.

I guess my suggestion and my hope is that as a result of this hearing our concerns are seriously addressed in writing so that the problems that we

I-Bauman-1 [BIU-1] cont.

I-Powning-1 [GEN-1]

foresee don't occur. It seems like an opportunity for the people putting on this event to actually recruit the Dolphin Club and South End, who are stewards of Aquatic Park, and, instead of completely ignoring us and therefore probably limiting our use of the cove and alienating us, they could actually benefit from us being ambassadors to San Francisco.

And in addition to that, the images that are going to be broadcast all over the world about San Francisco I think they would be enhanced by seeing the kinds of things that go on at the club every day -- rowing and boating -- not something that happens every place. So it is a unique cultural asset that the people that are putting this event on should exploit, not try to squash.

So thank you for listening.

PRESIDENT OLAGUE: Thank you.

MIKE SAVAGE: Good afternoon, Commissioners. My name is Mike Savage. I am a strategic planning and partnership director for the Golden Gate National Recreation Area and also the lead for the National Park Service on America's Cup.

I am speaking to you today on behalf of the two National Park units that have been identified as spectator venues, both the Golden Gate National

I-Powning-1 [GEN-1] cont.

Recreation Area and the San Francisco National Historic -- San Francisco National Maritime Historic Park.

More than simply spectator venues, these National Park lands, open space, and waters provide over a combined 16 million visitors annually from near and far an opportunity to enjoy the natural scenic, cultural, and recreational resources of the Bay Area -- from frequent daily visitors, maybe residents from San Francisco running or biking on the Crissy Promenade or the Aquatic Park, to the out-of-town visitor who takes their first trip to Alcatraz Island or the Hyde Street Pier.

To point, our mission can be simply stated -- and it's important because that is the lens through which we see this -- is to preserve and protect park resources and values so that current and future generations may enjoy them. Given that lens, we want to recognize first that the City staff has worked hard on trying to get this document out in a short time frame, given some of the construction schedules and permits that are necessary. We have worked in providing extensive scoping comments in March and have worked with them since -- both Mike Martin, Kelly Capone, and the rest of the staff -- to look at mutual

solutions.

And at the present time in the document some of those solutions haven't been addressed and some of the commitments and mitigations aren't yet there. They are deferred to later plans, such as the People Plans or Park Plans.

Now, again, we recognize that, given the time of getting this document out, these things may have been developed post when that plan went to draft. But without that level of detail and a deferral to later plans and a lack of commitments on some of those mitigations, it is difficult for us or the public to judge the adequacy of the document and the future unstated actions. So we are committed to working with the City and the City staff on trying to reach these solutions and make sure that they can be identified within the document so that items that may have been ignored or identified as less than significant without mitigation really are detailed in terms of what those mutual solutions are.

A-NPS1-01 [IO-4c]

To mitigate impacts on our resources and visitors, we will need those express comments in these decision documents. They will include but not be limited to impacts and mitigations of helicopter noise; on sensitive resources; and the enjoyment of visitors

A-NPS1-02 [IO-1b]

to parklands; the impacts of forecasted crowds over 100,000 in a day along the parkland of San Francisco's northern waterfront; and the impacts on visitor safety, access, and enjoyment for all; as well as on the potential damage to earthwork batteries, fragile dune vegetation, and other sensitive natural and cultural resources. To address these ourselves, we would require setting up an incident command team --

A-NPS1-02 [IO-1b] cont.

PRESIDENT OLAGUE: Thank you, sir. And you can submit your comments in writing also until the 8th.

JANE CONNORS: Good afternoon, Commissioners. I'm Jane Connors, the senior property manager of the Ferry Building.

Let me emphasize that the Ferry Building supports San Francisco hosting the America's Cup; however, we have concerns about the implementation.

In its current form, the People Plan would close the Embarcadero northbound on roughly two dozen major race days, cutting off access to the Ferry Building Marketplace. This would be devastating to our merchants, the Farmer's Market, and our tenants. Vehicular access is critical to the Ferry Building's success. Our retailers have unique storage constraints due to the building being over water and many of them require multiple deliveries a day in order to serve

O-Ferry Bldg-1 [TR-3d]

their customers.

Service access is also necessary for office tenants. Ferry building merchants supply many local chefs with their daily needs for fresh foods and produce, prompting frequent pickups and drop-offs.

Parking is critical for many of our tenants and patrons and most highly used parking areas are accessed off the Embarcadero. On an average day the building receives over 250 deliveries to shops and offices. Access and parking are also essential to the Farmer's Market. On Saturdays alone 120 farmers' trucks are parked in the area from 6:00 a.m. to 3:00 p.m. Without continuous access off the Embarcadero and parking, the Marketplace could not operate, much less thrive. These impacts were not addressed at all in the draft People Plan or in the DEIR.

O-Ferry Bldg-1 [TR-3d] cont.

We would have provided more specific comments, but the draft People Plan is too vague and the DEIR defers analysis to the final People Plan. The DEIR does not identify and address the traffic circulation effects from the many Embarcadero road closures. As a result these impacts are underestimated or omitted entirely.

The DEIR improperly defers analysis of impacts and identification of specific mitigation

O-Ferry Bldg-2 [PD-7]

measures until the final People Plan. The DEIR must inform the public about the exact days and times of the road closures so that the impacts can be accurately assessed during the CEQA process. Assumptions are not sufficient. The DEIR must evaluate the impacts that would result from cutting off access and parking around the Ferry Building, including the curbside, Ferry Plaza, and Seawall Lot 351. The DEIR must evaluate alternatives which keep the Embarcadero open in front of the Ferry Building.

For these reasons, the DEIR does not comply with the requirements of CEQA. It must be revised to recognize these adverse effects and to provide appropriate solutions. We will be expanding on these remarks in written comments.

O-Ferry Bldg-2 [PD-7] cont.

Thank you.

PRESIDENT OLAGUE: Thank you.

SAUL BLOOM: Commissioners, Saul Bloom, Arc Ecology. Nice to see you all again. We have to stop meeting like this.

I am also a member of the environmental council. And I am buoyed by the optimism of my colleagues and I'm also inspired by the hard work of the council, the hard work that the council has put in on the environmental impact report, working with the

City and trying to improve the process and the document. I support the comments of my colleagues. And Arc Ecology will be submitting its own comments by the deadline.

But my job here today is to deliver another message. As charmed as I may be by my colleagues' enthusiasm for working with the City, I am not surprised by the confusion between the project environmental impact report and the program environmental report. I am not surprised by the absence of their feedback within the draft environmental document. I am not surprised by the lack of specificity or the sensitivity to local users of the waterfront. And I am not surprised about the potential for undisclosed benefits to the developers.

O-ArcEco1-01 [IO-5]

I have stood here in the past two years on three environmental documents, including this one. Two of those were litigated three times. One just settled. And despite the positive things that you will hear from people within the City about the decision being largely favorable to the City, there is one element of that decision which has specific and important ramifications to the development of the Hunters Point Shipyard. And as I think you all know, Arc Ecology is a member of Citizens for a Sustainable Treasure Island; and we sued

the City recently on the Treasure Island environmental impact report.

Whether it's us or another organization that comes here and brings litigation against a project like this, it is not because we are litigious, as people would like to believe. What it is is because efforts to sincerely cooperate and provide appropriate criticism are ignored or rebuffed and that comments that include hundreds and thousands of hours of community and public work are not taken seriously. It is something to take very, very seriously, Commissioners.

O-ArcEco1-02 [INT-4]

Thank you.

PRESIDENT OLAGUE: Thank you.

Sam Ferguson, followed by Andrew O'Mahoney.

SAM FERGUSON: Hello. My name is Sam Ferguson. I'm a resident of San Francisco. I've lived and worked here for over 20 years. I'm a social worker. I work primarily with low-income seniors.

And I want to say that, without giving away any confidential information, that we have an 82-year-old man who swims regularly at Aquatic Park. And as you probably know, swimming is one of those activities that is really safe. And I want Aquatic Park to remain safe.

I-Ferguson1-1 [RE-2]

My grandmother passed away at 82 years old. She wouldn't have been able to swim in the park, but, god, I wish she could have. And, you know, if we had asked her -- if she were here today and we could ask her, Well, what can we do about this? She was a southern lady. She would have said, Why can't we share? So I think we can share. And I think we can keep this resource for the important people in San Francisco's community.

I-Ferguson1-1 [RE-2] cont.

ANDREW O'MAHONEY: Good afternoon. I am Andrew O'Mahoney and I have been a member of the Dolphin Club of San Francisco since November of last year. I commute four days a week from the East Bay to swim in Aquatic Park.

I would just like to comment on the recreational use of Aquatic Park. Since June 1st, I have swum ninety and a half miles in Aquatic Park; and a colleague of mine at the club has swum around one hundred and forty.

Furthermore, there are sprint competitions, there are swimming competitions of any kind. There is also kayaking and rowing going on in Aquatic Park. Furthermore, from that, there are also countless numbers of people who make use of the beach at Aquatic Park daily. They hang out in the sun, they swim in the

I-O'Mahoney-1 [BIM-3a, RE-6]

water, they kayak from the shores. It is a great place just to hang out and have some fun.

I would also like to comment on the marine life that I have seen while swimming in Aquatic Park, including harbor seals and jellyfish; and that the environmental impact of the proposed America's Cup should be taken into account regarding those measures.

I-O'Mahoney-1 [BIM-3a, RE-6] cont.

Thank you very much.

PRESIDENT OLAGUE: Thank you.

Is there any additional public comment?

JENNIFER CLARY: My apologies. I was passing out cards and I forgot to fill one out.

My name is Jennifer Clary and I am President of San Francisco Tomorrow and I am one of the members of the environmental council that submitted 30 pages of comments on the notice of preparation that submitted a lot of -- when we talk about submitting hundreds of pages for the administrative draft, we did it in edit format so it could be easily incorporated into the document, but I guess it wasn't quite easy enough.

O-SFT-1 [INT-4]

And so what we're asking you to do is direct staff to take our comments seriously and incorporate them. One of the -- there's a couple of serious areas that I think you should direct. One is the actual distance of impact, because they are looking at impacts

O-SFT-2 [HY-11, TR-2c]

close to the shoreline, but they are not looking at the impacts farther back. So if you think of San Francisco Bay as the natural amphitheater for America's Cup, they are covering the orchestra but not the balconies. And you should take care of that.

O-SFT-2 [HY-11, TR-2c] cont.

And, just as an example, things that happen on the shoreline affect the entire city. I live in Crocker-Amazon, which is about as far away from the waterfront as you can get; and four of the five bus lines that serve my neighborhood also serve the waterfront. So if we don't take care of the transportation problem, it is going to have a ripple effect.

O-SFT-3 [TR-4c]

The other issue is -- and it's a short timeline for this document -- I understand that we are trying a new way of doing things. But a lot of the mitigation is contained in all of these other documents -- the People Plan, the Waste Plan, the Sustainability Plan, ad infinitum. The difficulty is, after months of wondering and questioning and asking, we still don't quite understand what the approval process is for those plans, like who gets to say the plan is done? It seems clear that the mitigation for this document is going to be contained in these other plans, that you are the ones to have final approval on them. And I think that

O-SFT-4 [PD-7]

you should clarify that and ensure that that in fact takes place.

Thank you very much.

PRESIDENT OLAGUE: Thank you.

Is there additional public comment? Seeing none, public comment is closed.

Commissioner Miguel.

VICE-PRESIDENT MIGUEL: Yes.

Particularly to Mr. Overman's and others' concern with the federal lands, I just want to make sure everyone understands that, in addition to this CEQA process, there is a NEPA process going on. And there are three public venues for your comments into the NEPA process. The first one is next Wednesday, the 17th, 6:30 at the Bay Model Visitors Center in Sausalito; on Thursday, the 18th, from 7:00 to 9:00 -- the first one was at 6:30 -- Thursday, the 18th, from 7:00 to 9:00 at the Golden Gate Club in the Presidio. And the third one will be on Tuesday, the 23rd, 6:30 to 8:30 at the Waterfront hotel in Oakland. So you've got San Francisco, North Bay, and East Bay involved there. These are being convened by the GGNRA, the National Park Service, and the Army Corps of Engineers, so they're all involved in that. And I'm sure many of you who have spoken today or who are here will have a busy

O-SFT-4 [PD-7] cont.

week next week.

At the present time, I do not feel that the DEIR is adequate and complete. Although not a member at any time of either the Dolphin or the South End Club, I have, not presently but in my younger days, been a frequent swimmer at Aquatic Park. The very concept there are alternative locations such as Ocean Beach is ludicrous. You might -- and there are a few who do in their wetsuits, do a little mild surfing out there, but that is not a swimming venue. I used to swim at China and Baker, but those are not even at all adequate to compensate for the swimming that's available or the rowing, for that matter, at Aquatic Park.

And the comments that this is nine weeks in the summer season, which is the high season for boating and swimming there, has to be noted.

I'm not totally pleased with the transportation plan as it's noted there. They comment on the E-line. I question whether it will even be in existence by the time we get to the America's Cup. I know some people think it will, but the resistance and what it has to go through is in question.

I think there is serious considerations that has to be given to virtually the closing of the Ferry

A-SFPC-Mig-01 [RE-2]

A-SFPC-Mig-02 [TR-4b]

A-SFPC-Mig-03 [TR-3d]

Building over that period of time and most of the activities there, let alone the Farmers Market that my wife and I are at seven-thirty on Saturday mornings. You have all of the workers and all the work that goes on there in there and Pier 1 1/2, Pier 5, and all the way down. There is virtually no adequate transportation alternative by vehicle to closing the northbound lanes on the Embarcadero.

A-SFPC-Mig-03 [TR-3d] cont.

And something -- and I'm not -- and she will admit it -- always in agreement with Nancy Shanahan, but she brought up a very good point. And I'm going to quote from the DEIR: Long-term development rights under the host agreement would result in development of Piers 26, 28, 30, 32, 19, 19 1/2, 23, 29, and Seawall Lot 330. And yet there is nothing that I could find in the DEIR that addresses this whatsoever, because they don't know what's going to happen. And so you can't assess it. And yet it's mentioned in the DEIR. Now, either it's mentioned there because it has to be because it's part of the development agreement or there has to be something said in there as to what future process will be involved as to this development, if and when it occurs. And unless I skipped it, I could not find that information there whatsoever.

A-SFPC-Mig-04 [IO-5]

I may have additional written comments.

PRESIDENT CLAGUE: Commissioner Antonini.

COMMISSIONER ANTONINI: Well, thank you.

I think that it is marvelous that a document of this size can be produced so quickly. And I think this may be instructional for the future and we might become a lot more business-friendly if we can do this. However, like anything else, it's important to get it right. And that is what we are dealing with today. And I've heard your comments. And so I want to tell you some of the things that I'm hearing.

The placement of the big screens is a concern, I guess. And that has to be -- you know, the environmental effects of those have to be looked at very closely, whether that location is correct. And, you know, we have to deal with the impacts. We have to look at other possible sitings for those. It's certainly important.

A-SFPC-Anto-01 [RE-2]

The other thing that I heard a lot about is the interim power for vessels that are cruise ships and others that are moored in San Francisco. And we have developed a system to provide shoreline power to them to keep them from running their engines to provide the needed function; and that is an important environmental issue. In fact, one of the things that we're going to benefit from here, as is mentioned, is that we are

A-SFPC-Anto-02 [AQ-5]

1 going to increase the megawattage for a new cruise
2 terminal from 12 megawatts to 20 megawatts, which is
3 going to make it even more environmentally sound in the
4 future. But what the commentary is on is the interim
5 situation. And if there is a way to still provide some
6 shoreline power to these vessels during the time of the
7 America's Cup, I mean that may be something that at
8 least should be mentioned in the document.

A-SFPC-Anto-02 [AQ-5] cont.

9 And then, of course, one of the biggest issues is
10 loss of use of certain recreational areas, particularly
11 those that are used for aquatic uses such as canoeing,
12 swimming, kayaking. There are some other sites that
13 might be possible sometime in the future. I mean they're
14 not available now.
15 Yesterday I took a tour out in India Basin,
16 Warm Water Cove, China Basin. I mean I'm not sure.
17 They are certainly not ready at this time, but I think
18 we have to take advantage of some of the benefits from
19 this entire thing to be able to, in the future, create
20 other areas that can be used for some of these
21 activities. And certainly I think someone mentioned
22 sharing it. And if there is a way to continue the
23 usage at Aquatic Park during the activities, wherever
24 possible, that would be great. I'm not sure if that's
25 compatible or not, but we'll have to figure out a way.

A-SFPC-Anto-03 [RE-1]

1 Transportation is a big concern. And I agree. I
2 think it's great that -- if they could begin the E-line
3 all the way from Caltrain station to bring people from
4 the south all the way on what is now the F-line, adding
5 more cars to the F-line. And certainly other
6 supplemental public transportation is essential along
7 the waterfront and perhaps some accessory routes that
8 might eliminate bringing people directly along the
9 waterfront, but rather coming into areas that are less
10 congested to bringing them to those points without
11 adding to the congestion. And certainly the F-line
12 extension to Marina Green, while I've heard that this is
13 not feasible before next year, which probably is true, I
14 think starting on that and getting that fast-tracked
15 makes a lot of sense, because there's a tunnel there.
16 It hasn't been used in years. And that would really be
17 a great advantage and something that perhaps if it isn't
18 done in time for the America's Cup is a benefit that
19 would be useful for years to come.

A-SFPC-Anto-04 [TR-2f]

20 And everybody is concerned about access to
21 the Ferry Building, to Fisherman's Wharf, and to other
22 activities. And that has to be properly addressed
23 because it is important that their businesses will go
24 on; and they are essential to San Francisco.

A-SFPC-Anto-05 [TR-3d]

25 Finally, listening to the testimony from

members of the Dolphin and South End Rowing Club certainly are a testament to the benefits of regular, strenuous exercise, if you listen to some of the people who were there. I am really proud of the athletic clubs we have in San Francisco that a lot of people don't realize how many we have and how active the members are. However, I'm not a swimmer, so -- but I'm pretty impressed by somebody who can swim from the Golden Gate Bridge to the Bay Bridge. That's a ways.

And, finally, there's areas that are inaccessible along our waterfront that are not as clean as they should be. And I think, again, this might be an advantage for us to clean up some of these areas and make more areas accessible so in addition to Aquatic Park we have a lot of other areas that will be usable.

A-SFPC-Anto-06 [RE-10]

A question was raised. Commissioner Miguel talked about the scope of this EIR and how it deals with future development that will occur on future piers and what sort of environmental screens we'll have to have in the future. I'm not sure in how much detail this goes into that, but that is a question that should be, you know, answered as to, you know, whether this project EIR would also include -- what it would include towards these other developments, which will happen, I'm sure. It's just a question of what sort of

A-SFPC-Anto-07 [IO-5]

additional environmental analysis will have to happen. As everyone knows, we have additional approval processes for each of them. But it's the environmental question that comes up.

A-SFPC-Anto-07 [IO-5] cont.

Hyde Street Pier was mentioned. Certainly may be usable for some additional functions above and beyond what's approved.

A-SFPC-Anto-08 [RE-3]

Cleaning up the restrooms at Aquatic Park makes, you know, total sense. I mean that should be done whether we had an America's Cup or not. It's like one of our problems we have is that we don't have enough of these. And I know that some people may not avail themselves of them anyway, but at least they have to be there, you know, to make it possible.

A-SFPC-Anto-09 [UT-2]

And finally, mitigate whatever effects we can for Crissy Field and for other parts of the Golden Gate National Recreation Area. And, as Jennifer Clary said make sure that you analyze the longer outreaching impacts of the activities on other parts of San Francisco and the Bay Area for that matter, although we are kind of confining our analysis to the City and County of San Francisco.

A-SFPC-Anto-10 [RE-10, TR-2c]

I think it's a great project. I'm proud we have this. I think it has tremendous benefits for San Francisco. We will create a cruise terminal that we

would not create if it weren't for this activity. So that's great. I think it's a great -- but I think we have more work to do on getting this document ready.

PRESIDENT OLAGUE: Commissioner Moore.

COMMISSIONER MOORE: Thank you for everybody who has commented. There were many thought-provoking comments. And I think -- I hope that they all together will create a ground swell that this DEIR is more responsive to the issues which concern the citizens of San Francisco.

Needless to say, I do not feel that anybody objects to the fact of the planning of the America's Cup, but I do agree that at the moment the DEIR that stands is somewhat incomplete because it mashes together a project EIR that is the cruise terminal and incomplete program EIR with the America's Cup.

A-SFPC-Moore-01 [INT-1]

And kind of coincidentally it has added a new program which lacks a complete description and there is no environmental analysis. And that is the speculative and inconclusive addition of two super-yacht berths occupying Pier 14 to 22 1/2, with 26 slips, and Piers 27 to 29 with 16 slips. These are up to 500-foot boats. Few or nobody in the world has really ever analyzed the environmental effects of these because where these boats currently exist is in the Maldives,

A-SFPC-Moore-02 [IO-5]

somewhere in probably Monte Carlo or Portofino or locations which don't really quite analyze the effect the way we are obligated to do.

A-SFPC-Moore-02 [IO-5] cont.

The event description for me somewhat appears very optimistic, very pro-event. Yet it is open-ended and somewhat missing information. It is very particular when it does not analyze the actual effects on the surrounding neighbors. It speaks about the waterfront, but the surrounding neighborhoods, which is like the secondary, quote, living areas -- for us, the main living areas -- are not really fully addressed.

A-SFPC-Moore-03 [IO-3a]

The project for the long-term lease beyond 2012-2013 is incomplete. And while Commissioner Miguel listed the many locations, which is almost the entire waterfront, the long-term impact of these uses cannot be analyzed, although it should. What that would require is the type leases; the exact location; the number of locations, specifically the square footages, et cetera; the type and intensity of uses; the frequency of use and specific time frames, together with specific cooperation of requirements, which is loading, unloading, all complete infrastructure, which at this moment does not exist in some of those locations.

A-SFPC-Moore-04 [IO-5]

I was very much struck by the uniform

A-SFPC-Moore-05 [RE-1]

expression of a consensus that there is a complete absence of impact analysis on existing public recreation, and I completely agree with that. The only acknowledgment of impact is actually the wear and tear on facilities.

A-SFPC-Moore-05 [RE-1] cont.

I found that somewhat amusing, particularly as we listened to very detailed testimony from the Dolphin and South End Rowing Club. However, in the middle of the South End Rowing Club and the Dolphin Club, there is also a public pier, which is referred to as a municipal pier. That is for many people in the city a food resource; and they have the right to fish and get their lunch or dinner there at any time of the day or any time of the year, but that will probably be impacted by this event.

A-SFPC-Moore-06 [RE-8]

In addition to that, there is the Maritime Museum; and nobody from the Maritime Museum spoke today. And it goes on to speak about public recreation in Fort Mason, the Marina Green, Crissy Field, Crissy Field Center, Alcatraz, Fort Baker, and the Presidio waterfront. What is not analyzed is the on-water impact on other recreation, because, in addition to swimmers in Aquatic Park, there are many wind surfers and kayakers out on the bay launching from Crissy Field. There is also an on-land impact of access to

A-SFPC-Moore-07 [RE-2, RE-4]

the water for recreation, which are the people who come with their kayaks and small rowboats or don't belong to those clubs where there is a permanent mooring for those particular watercraft.

A-SFPC-Moore-07 [RE-2, RE-4] cont.

What I am personally concerned about is what I consider the privatization of the waterfront in key locations during the event. And at this moment I am glad that I do not live in the Marina because the Marina Green will be greatly privatized not only for a race, which are mostly relative short-term events when they occur, but for nine months or more with people basically being cut off from their front yards, that being the Green and the waterfront beyond.

A-SFPC-Moore-08 [LU-5]

What I am concerned about -- and these were plans which were recently approved in front of this Commission -- are contradictions with those plans. One is the Brannan Street Wharf Plan. We approved this EIR just actually about eight weeks ago and that EIR was solely based on the concept of public open space, recreation, and public water access and the use of the open water access and the open water basin for public recreation. That part of the city is greatly underserved. And the Port's plan to complete the waterfront recreation going south, that particular project was a major coup to get approved as easily as

A-SFPC-Moore-09 [IO-6]

it did this particular EIR. And the plans for the America's Cup seem to be kind of looking at that particular project site a little bit differently.

The next point -- and you have to really look with a magnifying glass -- is the Treasure Island plan. The Treasure Island Sailing Center is the only public water access, non-profit organization on Treasure Island serving families and low-income youth in San Francisco and Oakland. The DEIR identifies the center's parking lot, which is a very small area, as a helipad location for the America's Cup. And helicopters and water sport in that particular location do not mix very well. So I have to assume that that is a contradiction in the way we looked at that EIR.

A-SFPC-Moore-09 [IO-6] cont.

It goes on of how Crissy Field -- and Mr. Overman spoke to that -- Crissy Field and Crissy Field Center are being adaptively reused for the America's Cup. I hope there will be significant pushback from the Golden Gate Conservancy to properly sort that out. That goes on with suggested uses of Fort Mason and The Presidio general recreation area in general.

A-SFPC-Moore-10 [LU-5]

There is a series of implementation plans which I personally would have liked to have in order to look at the EIR and look at the analysis of impacts as being complete. I have never seen the People Plan. I

A-SFPC-Moore-11 [PD-7]

am not familiar of any draft of the Zero-Waste Plan. The Parks Events Operations Plan is only in draft form available in the fall of 2011. The Public Safety Plan, I am not sure where that stands. The Sustainability Plan, Workforce Development Plan, Water and Air Traffic Plan, and Team Base Operational Manual. All of them are mentioned. I think this body, most likely you yourself, would need all of those to understand what is really intended here.

A-SFPC-Moore-11 [PD-7] cont.

And, again, I think, while we can expect to get these documents, their timely delivery in order to fully and honestly deliberate on this EIR, I think, are essential.

And I will submit my comments in writing.

PRESIDENT OLAGUE: Commissioner Sugaya.

COMMISSIONER SUGAYA: I would like to thank everyone from the public for coming out. I think that we need to -- I would like to clarify a couple of things, even though this is supposed to be comments on the EIR. In looking through the environmental report, especially in the public policy section or land use, I think you'll be surprised to find that this Commission has very little decision-making with respect to the America's Cup. You know that a lot of the venued locations are GGNRA, NPS, or the Port, so the Port

A-SFPC-Sug-01 [PD-3]

Commission and the federal agencies have a lot of the decision-making to do on this.

If we're talking about transportation, a lot of that is implemented not by the Commissioner but through MTA and the people over in the transportation section and Muni. There may be some involvement on the Rec/Park Commission. And they may have some jurisdiction.

But I think if you look through the kind -- and I don't think we have anything to do with the people -- well, aside from reviewing things, as Commissioner Moore pointed out, which we hopefully will be getting those documents that she listed just now -- in reviewing those and offering comments and our concerns about what may be or may not be in the People Plan and the Sustainability Plan and that sort of thing, I don't believe at this time that we have very much direct decision-making to do on the entire America's Cup project. And that may be surprising, but I think that it is the way it is structured, you might say, and that's an event and that kind of thing, even though it has to be manifested on the ground in some way.

So I'd still like to thank everybody for coming out, because this was about the EIR, which is

A-SFPC-Sug-01 [PD-3] cont.

broader than the Planning Commission here. And so your comments were not wasted in any way. But I think in the future there will probably be -- your opportunities will be more with the other jurisdictions, rather than the Planning Commission. So I'd just like to point that out. And I'll have some comments in written form of my own to submit later.

A-SFPC-Sug-01 [PD-3] cont.

PRESIDENT OLAGUE: Yeah, I just wanted to echo what Commissioner Sugaya said. So I really appreciate the comments that we heard today. And definitely I think there were some important points that were made in regards to the inadequacy of the EIR and certain points that need to be further analyzed around recreational use of Aquatic Park.

A-SFPC-Olag-01 [RE-2]

I think Jennifer Clary mentioned the distance of impacts. And a couple of other items that she mentioned here I think are important for us to analyze further. But, ultimately, we will not be having much jurisdiction over the final project.

A-SFPC-Olag-02 [TR-4c]

So I think that it is important for the public to be informed of -- and the Commission here -- of our ultimate role as it relates to America's Cup. And I think ultimately it's just the certification of the EIR. But I don't think anything -- I don't think it goes beyond that, actually.

A-SFPC-Olag-03 [PD-3]

So I think that this was a good forum. Hopefully, members of the public also heard what the public had to raise, but I think it would be good for the public to understand all the different places where these decisions are going to be made about the ultimate, you know, the project and how it will look, cause a lot of the issues that were raised today do and don't relate to the EIR. It's the final vision for what people want to see in the project.

I would like to ask staff to provide -- I don't know if other members of the Commission are interested -- but I certainly would like to know -- just have a breakdown of where these different decisions are made. I know that Port Commission is an obvious one, but there are others. So I would like to be informed of that and have a better understanding. Clearly, it's the certification of the EIR and its adequacy here. But outside of that, I know We are not that body.

But, again, as Commissioner Sugaya mentioned, the comments that were made didn't fall on deaf ears. I just -- we just don't have a lot of -- we don't have any real ultimate influence on the -- how the project will look.

Commissioner Miguel.

A-SFPC-Olag-03 [PD-3] cont.

VICE-PRESIDENT MIGUEL: Yes, just a couple of comments to clarify some things.

The E-line, which does have a tunnel if it goes all the way -- I don't know if everyone understands that that's a one-way tunnel, only one direction at a time. Because of the narrow width of it, something of a bottle neck, not a huge people-mover.

A-SFPC-Mig-05 [TR-2f]

And there was a gentleman who spoke earlier regarding the Aquatic Park restrooms which he knew when he was at the old Lowell High School. When I was swimming actually on the team at the old Lowell High School is when I was doing a lot more swimming at Aquatic Park. And the restrooms were a disaster then. But that -- those of you who took notes that I mentioned the NEPA process, because that is a federal facility, a National Maritime Museum, that is where you should address your remarks.

A-SFPC-Mig-06 [UT-2]

PRESIDENT OLAGUE: Commissioner Sugaya.

COMMISSIONER SUGAYA: Yes, I'd just like to follow up. I don't want people to take my comment wrong. I think the Commission is truly interested in the progress of the America's Cup and will try to insert itself wherever we can and however we can. So I think that if there are concerns among you and you may not be

A-SFPC-Sug-02 [GEN-1]

getting responses that you would like, I think that you can certainly contact any one of us or the director -- I can put the director online here -- and we will listen to the concerns and then try to direct attention to it to the proper jurisdiction.

A-SFPC-Sug-02 [GEN-1] cont.

So I didn't want to characterize us as a passive body in this case. We certainly aren't that and are genuinely interested in working with the others.

PRESIDENT OLAGUE: Yeah. That's correct.

Commissioner Antonini.

COMMISSIONER ANTONINI: Thank you.

One advantage we have here is the lead time to be able to prepare to do as much as we can to mitigate impacts, unlike the World Series and the following parade, which I think went really well, but you had very little lead time to take care of mitigations and those measures.

A-SFPC-Anto-11 [TR-2f]

And I am reading the report here. And while I am not in any way minimizing the concerns about impacts, according to it, I think they were talking about up to 17 race days in 2012 and up to 50 race days in 2013. So you are looking at an impact probably of -- there will be additional days before and after, obviously, so maybe, you know, 25 maximum in 2012 and

60 maximum, 2013, if I'm reading this correctly. So while it is important, it is a segment in time and we do have some significant impacts all the time with baseball in 81 days per year. And I think we have been able to do a pretty good job of moving people in and out of that area of the city. And so -- and other events that attract large numbers of people to San Francisco -- parades and other things. So I think this can be done without a question.

A-SFPC-Anto-11 [TR-2f] cont.

PRESIDENT OLAGUE: Commissioner Fong.

COMMISSIONER FONG: Thank you.

I just wanted to make a few comments and sort of point out that this is a very large event over not just Aquatic Park but the entire waterfront. It will have lasting impact. And, most importantly, it hasn't been done before. So I think this whole thing is going to be a work in progress. And, in fact, the People's Plan I think we've maybe just seen the first draft of this; and as we get further, I look forward to a more tighter plan.

A-SFPC-Fong-01 [PD-7]

A couple of things related to transportation in the EIR. I am happy to see the mention of shuttle buses; and it's going to be very important to get folks in and out of the waterfront. A communication plan is suggested. And this here is going to be key to try to

A-SFPC-Fong-02 [TR-2f]

encourage folks not to drive themselves but to try to find alternate or group methods of getting to the waterfront. It describes bike lanes and bicycle parking, which I think is also very important.

A-SFPC-Fong-02 [TR-2f] cont.

And I just want to reiterate that while it's complex, it is a chance for improvement overall for the city and for the waterfront.

I am a little bit concerned about the northbound closure -- proposed northbound closure -- to the Embarcadero and how that could either prevent or trap people at certain parts of the waterfront. So, again, as this progresses and moves closer, I hope that there is a good plan to get people out using maybe potential buses or bicycles.

A-SFPC-Fong-03 [TR-3d]

Aquatic park -- and for the swimmers that are still here, I enjoy the water of the Bay, swimming as well. I enjoy surfing. I realize that being in the water here in San Francisco is a very personal experience on a changing basis. The water tastes different one day and tastes different another day. And you really in a sense get a feel that it is your Bay. And while I am excited about the America's Cup, I grew up in the Bay fishing and boating and swimming. And for every time I am on the water, I realize and say, Boy, nobody really experiences this. And I don't

A-SFPC-Fong-04 [RE-2]

know the figure but probably two percent of San Franciscans actually make it onto the water. And so many times I said to myself, Other people should experience it. America's Cup is going to allow people to get to the water's edge to get into, onto, and on top of our Bay and experience that. So I am excited about that.

A-SFPC-Fong-04 [RE-2] cont.

Related to the long-term development plans of the Port, well, I just wanted to point out that those developments will still have to meet the Port Regulations and state land restrictions. So there is some level of assurance there on that part.

A-SFPC-Fong-05 [IO-5]

And I think that is it. Thank you though.

PRESIDENT OLAGUE: Commissioner Moore.

COMMISSIONER MOORE: I just wanted to make a comment regarding that this Commission does not decide what the exact outcomes will be. The only thing we can do though is support that the planning department delivers an EIR which is responsive to the questions and the concerns of this community. I think we have the power to do that.

A-SFPC-Moore-12 [PD-3]

And I do believe that the spoken comments which were pointed out to us in other EIRs, as they're prepared by many thoughtful and knowledgeable people, should indeed help give guidance to some of the issues

and some of the concerns which the department should at least look at and respond to. And I would strongly encourage it, particularly because this is such a fast-track EIR, that that is done as much as possible.

A-SFPC-Moore-12 [PD-3] cont.

PRESIDENT OLAGUE: I just received a note from a member of the public. The NEPA scoping hearing is August 17th at 4:30, not 6:30.

VICE-PRESIDENT MIGUEL: Sorry. Thank you.

PRESIDENT OLAGUE: So they wanted to give that correction.

But I agree with all of the comments of Commissioners Moore, Sugaya, and everyone. So clearly if there are some questions anyone has regarding the process, if we have a calendar -- you know what is the time frame of, you know, when will the final EIR be in place and just some kind of -- I think I would like to have a sense of that, too.

DIRECTOR RAHAIM: We could put together an outline for you, as well as all the reviewing bodies and approving bodies that have a role in the event. I think --

PRESIDENT OLAGUE: That would be great to have for us and so that the public can have it. Because it's really complicated, I think. And everything is happening so quickly that we all need to be sort of

alerted to it.

But I really want to thank the members of the public for coming out and educating us. Yeah. I feel it's really important.

Commissioner Sugaya, go ahead.

COMMISSIONER SUGAYA: Just a follow-up question to the director.

In addition to the certification of the EIR, which is off whenever -- and we've had informational presentations, are there other things that are scheduled for the Commission at this point?

DIRECTOR RAHAIM: Not currently. If the Commission wanted to have another informational hearing at some point, we could certainly do that.

COMMISSIONER SUGAYA: Are we expected to receive the People Plan and the other things?

DIRECTOR RAHAIM: Yeah. We can make sure that you get copies of those.

COMMISSIONER SUGAYA: Okay. All right.

PRESIDENT OLAGUE: Thank you.

SECRETARY AVERY: Okay. I believe that concludes the public hearing on this draft document. I will note that written comments will be accepted at the planning department's offices until the close of business on August 25th, 2011.

[Hearing on the item was concluded at 3:58 p.m.]

STATE OF CALIFORNIA)
COUNTY OF SAN FRANCISCO)

CERTIFICATE OF REPORTER

I, FREDDIE REPPOND, a duly authorized Shorthand Reporter and licensed Notary Public, do hereby certify that on the date indicated herein that the above proceedings were taken down by me in stenotype and thereafter transcribed into typewriting and that this transcript is a true record of the said proceedings.

IN WITNESS WHEREOF I have hereunto set my hand on this 13th day of August, 2011.

_____

FREDDIE REPPOND